THE 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 multiple listing service of the Toronto Real Estate Board.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

- and -

THE TORONTO REAL ESTATE BOARD

Respondent

- and -

THE CANADIAN REAL ESTATE ASSOCIATION and REALTYSELLERS REAL ESTATE INC.

Intervenors

Expert Report of

Gregory S. Vistnes, Ph.D.

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I. QUALIFICATIONS

1. I am an economist with a specialty in the fields of industrial organization and the economics of competition. I hold a Ph.D. in economics from Stanford University and a B.A. in economics from the University of California at Berkeley. I have published, made professional presentations, testified, and consulted in the areas of industrial organization and competition economics for over 20 years. A copy of my curriculum vitae is provided in Appendix 1.

2. I am a Vice President in the Washington, DC office of Charles River Associates (CRA), an economics and business consulting firm. My work at CRA focuses almost exclusively on issues relating to competition, with a substantial portion of that work relating to both merger and non-merger matters before the U.S. Federal Trade Commission (USFTC) and the Antitrust Division of the U.S. Department of Justice (USDOJ). I have served as an economic expert and consultant both for private parties as well as for government antitrust agencies, including the USDOJ and for several state Attorney Generals.

3. While at CRA, I have analyzed a variety of competitive issues relating to the real estate industry, including analyses of the title insurance industry and analyses of real estate markets. For several years, I served as the economic expert for the USDOJ in their litigation with the National Association of Realtors (NAR) regarding several issues similar to ones in the current Application between the Commissioner of Competition and the Toronto Real Estate Board (TREB).

4. Prior to joining CRA, I served as Deputy Director for Antitrust in the Bureau of Economics at the USFTC. In that position, I was responsible for directing the economic analysis of all competition matters before the Federal Trade Commission and overseeing its staff of approximately 40 Ph.D. economists. I have also held several positions in the Economic Analysis Group of the USDOJ's Antitrust Division, including Assistant Chief of the Economic Regulatory Section. In all of these positions, my antitrust analyses have focused on assessing competition and evaluating the likely competitive effect of firms' conduct.

5. I have been retained by the Competition Bureau to provide an economic analysis and offer my expert economic opinion regarding competitive issues in the ongoing Application *Commissioner of Competition v. Toronto Real Estate Board*. Neither my own, nor CRA's, compensation relating to work on this matter depends in any way on the outcome of this case or the opinions I reach in this matter.

II. SUMMARY OF FACTS AND OPINIONS

A. Overview of facts

6. TREB is a trade organization representing over 34,000 member real estate agents and brokers in the greater Toronto area (GTA).[1] Consumers in the GTA pay TREB's members approximately $2 billion per year in commission payments, with most of those commissions paid to agents at one of the GTA's five large corporate brokerages.[2]

7. One of TREB's responsibilities is to maintain and control access to the multiple listing service (MLS) in the GTA. TREB's MLS system is a joint venture among otherwise competing brokers in the GTA that provides substantial efficiencies in terms of matching buyers and sellers and reducing brokers' transaction costs. This MLS compiles in a single database detailed information about almost all properties in the GTA that are for sale, have been sold, are pending sales,[3] or have been put on the market but subsequently withdrawn without selling.[4]

8. Agents and brokers in the GTA need access to TREB's MLS in order to effectively compete to provide real estate services.[5] Although TREB itself does not compete to provide real estate services to consumers, TREB's control over access to the MLS provides TREB with control over the manner in which its member agents and brokers can compete.

9. Traditionally, TREB has provided MLS access to all licensed members. Those agents and brokers then serve as an information intermediary between consumers and the MLS data: rather than having consumers search the MLS database directly, members conduct searches on behalf of the consumers with which they are working. More recently, brokers in Canada and the United States have begun incorporating the Internet as part of their business model and as a way in which they compete: rather than working in a "brick-and-mortar" environment, brokers have

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[1] For the purposes of this report, I define the GTA as comprised of the Regional Municipalities of Halton, Peel, York, and Durham and the City of Toronto.

[2] These five corporate brokerages are Re/Max, Royal LePage, Realogy (which includes Century 21, Coldwell Banker, and Sotheby's), HomeLife, and Sutton Group.

[3] For the purposes of this report, pending sales refer to cases in which a sales agreement has been signed but where the agreement has not closed (i.e., the keys have not been turned over to the buyer).

[4] In this report, I focus solely on residential real estate services. The vast majority listings in TREB's MLS are for homes (e.g., detached and semi-detached homes, condominiums and townhomes), although a very small percentage (less than 0.2 percent) are for properties such as vacant land and farms. In this report I use the terms "listings," "properties" and "homes" interchangeably.

[5] Agents and brokers often provide the same services to consumers. Agents typically work out of a single real estate office location and are typically independent contractors under the supervision of a broker, while a broker is an individual operating out of one or more offices who has met an additional set of licensing requirements, and who supervises the agents working in those offices. Brokers typically control many of the decisions affecting agents in that office, e.g., the number of agents to hire or to sponsor, or the type of technology provided to agents working out of the office. Accordingly, while I often refer to agents and brokers interchangeably, I generally refer to "agents" in the context of agent/broker interactions with consumers, while I generally refer to "brokers" in the context of agent/brokers operating a business.

begun offering services in a "virtual office" environment in which consumers can directly access certain services and information through a broker's website rather than through face-to-face meetings (or via fax, email or telephone) with the broker.

10. As part of this change in their business model, many brokers have begun offering virtual office websites (VOWs). A broker offering a VOW sets up a website that customers typically "enter" by logging in with their name and password.[6] Once on the broker's VOW, consumers can specify certain criteria to search for homes, e.g., location, price range, and number of bedrooms or bathrooms. The VOW then immediately identifies all properties that fit the consumer's search parameters, typically showing the location of each property on a map. VOWs can also provide other related information such as information on recently sold homes, crime rates or local schools as well as data analysis tools such as price trends in the immediate area of the property listing.

11. As reflected by the popularity of VOWs in some areas of Canada and the United States, many consumers prefer to work with brokers that offer VOWs. Not only do many consumers prefer using a VOW to search the MLS rather than relying on an agent as an information intermediary, VOWs often offer significant financial discounts without any reduction in the level of service. Thus, VOWs constitute an important new means by which brokers can compete and an important way in which competition can provide consumers with better services and lower prices.

12. VOWs also have the potential to reduce certain market distortions that exist in the real estate industry. These market distortions arise because of information asymmetries in which agents know much more about the real estate market than do consumers. These information asymmetries create "principal-agent" problems that allow agents to distort competition in ways that benefit agents at consumers' expense. These distortions attributable to principal-agent problems include agents steering buyers towards properties that offer the agent a higher commission, pushing consumers into signing contracts so that the agent can collect their commission even if the buyer or seller would have been better off continuing the search, and discouraging other agents from showing their home so that the sell-agent can also serve as the buy-side agent and thus collect commissions on both sides of the transaction.

B. Competitive issues addressed in this report

13. TREB's MLS is a joint venture that creates substantial efficiencies.[7] Those efficiencies, however, also provide TREB with substantial market power since, by cutting off brokers' access

[6] To access MLS data through a VOW, consumers must first establish a relationship with an agent in which they confirm that they are legitimately looking to purchase a home. This relationship can be established over the Internet by consumers providing their name, creating a password and accepting the VOW's terms of use.

[7] The nature of this joint venture and the efficiencies from that joint venture are discussed in more detail in Section III below.

to its MLS, TREB can deny brokers the efficiencies associated with using the MLS. While TREB's substantial market power stemming from its operation of the MLS is not itself anticompetitive, there is a danger that TREB will abuse that market power by using it to unnecessarily reduce competition. This matter involves claims that TREB has, in fact, abused its market power in ways that have substantially reduced, and are likely to continue substantially reducing, competition.

14. TREB's conduct involves first excluding VOW-based brokers from competing in the GTA, and then selectively disadvantaging VOW-based brokers in ways that reduced those brokers' competitive significance. Specifically, until late-2011, TREB discriminated between traditional brokers and brokers seeking to offer VOW-based services over the Internet: while brokers could still show MLS information to consumers through traditional means (e.g., face-to-face), TREB did not allow brokers to provide consumers that same MLS information through a VOW. Brokers violating TREB's rules were threatened with having their MLS access revoked. Since late-2011, TREB has continued to discriminate against and disadvantage brokers. TREB has done so by excluding key information (what I refer to as TREB's "excluded data fields") from the data feed it provides to VOWs and threatening to cut off MLS access for any broker that shows that information on their VOW.

15. TREB's use of the MLS to control how, and even whether, brokers can compete in the GTA raises serious competitive concerns. Although TREB itself does not compete to offer buy-side or sell-side real estate services, TREB represents members that have significant financial interests in how competition occurs and evolves, the terms and conditions under which new firms can enter and compete, the conditions under which firms can seek to increase their market share at the expense of incumbents by offering innovative new products and services, and whether information asymmetries can be used to benefit TREB's members at the expense of consumers.

16. As long as the principal responsibility of a trade organization such as TREB is to its own members, that organization has strong incentives to enact rules and policies that lessen and prevent competition so as to benefit its members at the expense of consumers. Here, the concern is that TREB's rules and conduct are having exactly this effect. First, TREB's rules prevent brokers from offering innovative services that can significantly increase *dynamic* competition even if there is significant existing *static* competition among brokers. By preventing or lessening this dynamic competition, TREB prevents innovative VOW-based brokers from capturing market share from other members. Second, TREB's rules help to preserve market distortions stemming from information asymmetries and principal-agent problems, and thereby reduce competition and benefit agents and brokers at the expense of consumers.

C. Summary of opinions

17. My opinions regarding the likely competitive effect of TREB's conduct are based on my review of documents turned over in discovery, witness statements, public information regarding the real estate industry both in the GTA and outside the GTA, court filings and depositions, the relevant economic literature, and my economic analyses of several years of TREB's MLS data and of other data.[8] I have also reviewed Sections 78 and 79 of the *Competition Act* as well as the Competition Bureau's draft *Updated Enforcement Guidelines on the Abuse of Dominance Provisions*. Inasmuch as my review of the evidence is ongoing, my opinions may be revised in light of any new evidence that I see.

18. In assessing competitive concerns, I pay particular attention to the three economic issues emphasized in Section 79 of the *Competition Act*. First, does TREB control how competition occurs in any relevant market? Second, has TREB engaged in, and does it continue to engage in, anticompetitive acts such as the exclusion or disadvantaging of competitively significant firms? Finally, has TREB's conduct likely prevented or lessened competition substantially in any relevant market?

19. My opinions are summarized as follows.

- TREB has substantial market power in, and control over, two relevant markets.
  - The two relevant markets at issue in this matter are local buy-side and sell-side real estate services providing MLS accessibility.
  - TREB's substantial market power flows from its control over the MLS, a joint venture that generates such significant efficiencies that agents and brokers depend on MLS access in order to effectively compete.
  - By threatening to deny MLS access and the associated efficiencies to agents and brokers that violate TREB's rules, TREB controls *how* firms compete, and *whether* those firms are allowed to compete, in the relevant markets.
- TREB has abused, and continues to abuse, its substantial market power and control of the relevant markets to reduce competition and protect its member brokers' interests at the expense of consumers.
  - Prior to late-2011, TREB *excluded* VOW-based brokers and agents from competing in the relevant markets. TREB effected this exclusion by preventing agents and brokers from using VOWs to show MLS information, and threatening to cut off MLS access to any firm that showed that MLS information to consumers on their VOW.

[8] See Appendix 2 for a list of the materials that I rely upon.

- Since late-2011, TREB *disadvantaged* VOW-based brokers by excluding competitively significant information from the data feed TREB made available to those VOWs and that those VOW-based brokers could show consumers.
- Both before and after 2011, TREB's imposition of its own rules on how brokers can compete has distorted the competitive market and the manner in which dynamic competition evolves. By discriminating against brokers seeking to compete by offering innovative VOW-based services, TREB has discriminated against one class of competitors (VOW-based brokers) in favor of another (traditional brick-and-mortar brokers with the effect of substantially reducing dynamic competition.
- Both before and after late-2011, TREB has imposed rules that preserve market distortions relating to how competition occurs in the relevant markets. These market distortions include "principal-agent" problems in which agents steer consumers who are interested in buying a home towards properties that offer more attractive commissions or in which agents fail to identify properties that offer low commissions, as well as distortions that serve to elevate the commissions that consumers pay to agents.

- TREB's abuse of its market power has substantially reduced, and continues to substantially reduce, competition in the relevant markets with the effect of harming consumers in the GTA.[9]
  - VOWs represent an important form of dynamic competition likely to change how competition among real estate brokers occurs. This dynamic competition promises new services, possibly at lower prices, than are currently available to consumers in the GTA.
  - VOWs create significant opportunities for new entrants and for existing firms to increase their shares at the expense of other incumbents. As a result, VOWs constitute a significant competitive threat to incumbent brokers in the GTA.
  - By first excluding, and now disadvantaging, VOW-based competition, TREB's conduct substantially reduces the dynamic competition that would have otherwise emerged in the GTA.
  - Static competition is not a substitute for dynamic competition. Despite thousands of agents already competing in the GTA, VOWs represent an innovation that can take competition to a new level characterized by even more attractive services and even lower prices than what consumers already enjoy. By reducing dynamic competition, TREB substantially reduces competition and harms consumers regardless of what levels of static competition may exist in the market.

[9] TREB's conduct may also affect competition in geographic markets outside the GTA. I focus just on the GTA, however, given that approximately 97 percent of TREB's listings fall within that region.

- By imposing its own rules on how competition can occur and evolve, TREB distorts firms' incentives and distorts the competitive process. These distortions include distorted incentives relating to firms' investment decisions, entry decisions, and decisions on what services to offer in an effort to innovate. These market distortions reduce competition and harm consumers.
- Dynamic competition in the form of VOW-based competition would have mitigated market distortions stemming from principal-agent problems and information asymmetries. By reducing that dynamic competition and helping to preserve those market distortions, TREB's past and ongoing conduct substantially reduces competition.[10]

III. THE REAL ESTATE INDUSTRY IN THE GTA

20. This section provides a brief overview of the role that brokers play in buying and selling a home, and the means by which those brokers compete.

A. TREB and MLS systems

1. MLS systems

21. MLS systems are generally believed to create significant competitive benefits (sometimes referred to as an "efficiency") that increase competition and benefit consumers. These efficiencies arise both because MLSs can facilitate matches between buyers and sellers and because MLSs can reduce brokers' costs of facilitating those matches.[11] These efficiencies make it very important for brokers and agents to have access to the MLS since, absent access, they cannot effectively compete with other brokers and agents that do have access to the MLS and its related efficiencies.[12]

22. As discussed in greater detail in Section VI, by choosing which brokers get access to the MLS and its associated efficiencies, an MLS operator can effectively control which brokers can compete in the market as well as the terms under which those brokers can compete. Thus, an MLS's efficiencies create substantial market power for the MLS operator that allows the operator to control the terms under which competition will occur.

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[10] Throughout this report, I use the terminology "reduces competition" as synonymous with "prevent or lessen competition."

[11] See, for example, "Working Party No. 2 on Competition and Regulation, Improving Competition in Real Estate Transactions – United States," Submitted by the U.S. Delegation, Organization for Economic Co-operation and Development, February 19, 2007 at ¶¶ 17, 18 and 52. Hereafter, "Working Party No. 2."

[12] In the remainder of this report, any reference to "efficiencies" associated with the MLS refer to these specific efficiencies of facilitating matches between buyers and sellers and brokers' reduced costs of facilitating those matches.

23. The operator of an MLS joint venture must also be careful not to abuse the market power that flows from the efficiencies created by the joint venture. While the creation of that market power is, by itself, not a competitive concern, there is a concern that the MLS operator will *abuse* that market power by using it to improperly reduce competition.

2. TREB's MLS

24. TREB is a trade organization that operates an MLS joint venture on behalf of its member brokers.[13] TREB operates this joint venture by collecting information from brokers and then compiling that information into a single database (the MLS system) that can be used by competing brokers on both the buy-side and the sell-side of real estate transactions.[14]

25. Inasmuch as the vast majority of GTA brokers are MLS participants, TREB's MLS includes most homes for sale in the area it covers.[15] The information about the individual properties in TREB's MLS is quite rich: in addition to including information about a property's location and list price, the MLS generally also provides detailed information such as the type of heating system, square footage of the home and of the property, the presence of a fireplace, garage, pool or other features, and the type of sewage hookup. TREB's MLS also includes information not just on properties that are currently for sale, but also historical information about properties that have sold and properties that were listed for sale but withdrawn from the market before the sale was concluded.

26. Only licensed agents (i.e., REALTORS) and brokers can be MLS participants who have access to and use of the MLS database.[16] This access is provided through TREB. TREB is the

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[13] Under "Who We Are," TREB's website states that, "Today, as Canada's largest real estate board, TREB serves more than 34,000 licensed real estate Brokers and Salespersons in and about the Greater Toronto Area. *TREB is the collective voice for both its commercial and residential REALTOR® Members* and operates under the direction of an elected voluntary Board of 16 Directors." [http://www.torontorealestateboard.com/about_TREB/who_we_are/index.htm, *emphasis added*.]

[14] I understand that the term "joint venture" may have certain legal connotations. Throughout this report, I use that term solely in the economic context: a cooperative venture among otherwise competing firms that is expected to result in certain competitive "efficiencies."

[15] MLSs, including TREB's MLS, do not include "for-sale-by-owner" (FSBO) homes in which the owner is trying to sell the home without the help of an agent. MLSs also typically exclude new construction. Most other homes are sold through the MLS: "90 percent of homes are sold through a realtor because realtors provide additional services that clients can use to enhance the value of their listing." [Consultant's Proposal Submitted by Navigator to TREB, March 2010 (TREB00012278).] See also a 2011 NAR study indicating that only about 11 percent of all home sales in the U.S. were conducted by the sellers themselves without the assistance of an agent or a broker. [National Association of Realtors, "Profile of Home Buyers and Sellers," 2011, at page 57.]

[16] See "REALTORS have exclusive access to the MLS…" [TREB00042202.] and "Restrictions on Use: Authorized User acknowledges that the MLS Database and BRS Database as formatted by TREB have substantial monetary value, has a special value due to *access only by TREB Members and users authorized by TREB*…" [TREB's MLS "Authorized User Agreement – Terms and Conditions," February 2008 (TREB00028537), *emphasis added*.] There are also a small number of third-parties that have contracted with TREB to get limited access to the MLS system. For example, 24 real estate appraisers pay TREB a fee for access to the MLS. [Voluntary Information Request, Toronto Real Estate Board, November 9, 2010, updated April 13, 2012, at Request #38.]

largest real estate board in Canada, representing between 30 to 35 percent of all Canadian Real Estate Association (CREA) members.[17] In terms of geography, TREB covers the GTA consisting of the city of Toronto and the four neighbouring Areas of Halton, Peel, York and Durham.[18] According to data provided by TREB, last year in the GTA there were more than 90,000 residential sales, with those sales totaling more than $40 billion in revenue. TREB notes that there are over 34,000 licensed agents in and around the GTA region;[19] of those, approximately 27,000 agents were involved in at least one home sale during 2011.[20]

B. Other sources of real estate information for consumers

27. TREB's MLS is the only comprehensive source of information regarding homes for sale in the GTA. While other information sources exist, those sources fail to include all of the listings shown in the MLS and even for the listings they identify, they provide much less information about that listing than is available through the MLS. Some of these alternative information sources include:

- ***Realtor.ca***. Realtor.ca is a website operated by the CREA that allows consumers to search a database for homes that meet certain criteria (e.g., price, location or number of bedrooms) and see information about those homes.

- ***IDX sites***. An Internet Display Exchange (IDX) website, operated by a broker, allows consumers to search a database for homes and see certain information about those homes. IDX sites only show homes where the sell-side agent has given permission for other agents to "advertise" the listing. As a result, IDXs exclude many listings in the GTA.

- ***Third-party websites***. Third-party (non-brokerage) websites that provide information about homes for sale in the Toronto area include ZooCasa and Kijiji. These websites do not interface with TREB's MLS database, but instead rely on individual agents posting information about their listings.[21] As a consequence, these websites typically only include a small fraction of the total number of homes for sale.

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[17] Examination for Discovery of Gary Simonsen, April 5, 2012, at page 19.

[18] According to TREB's website, it covers the following areas in and around Toronto: Dufferin, Durham, Grey, Halton, Hamilton, Kawartha Lakes, Northumberland, Peel, Peterborough, Simcoe, Toronto, Wellington, and York. [http://www.torontorealestateboard.com/buying/district_map/index.htm.] Although TREB covers some properties outside this region, those out-of region listings are a small percentage (approximately 7 percent) of TREB's listings.

[19] www.torontorealestateboard.com/about_TREB/who_we_are/index.htm.

[20] Based on analysis of TREB's MLS data.

[21] I understand that CREA is establishing a national data distribution facility (DDF) that will, among other things, provide third-party websites with some information from the MLS. I understand, however, that brokers can opt out of providing listings ["Data Distribution Policy and Rules," CREA, November 4, 2011 (CREA00033030 at '030).] and the information provided through the DDF to the third-party websites (or any other parties) will exclude competitively important data fields. The CREA DDF Policy and Rules state that "[l]isting content must not display… [a]ny confidential information *including past sales prices, the cooperating commission or fee,* etc. on a

C. Brokers and agents provide valuable services

28. The real estate industry consists of players operating at three different levels: corporate brokerages such as Re/Max and Century 21; realty brokers and brokerages; and the agents working at a particular brokerage.[22]

1. Agents provide services to both home buyers and home sellers

29. Brokers and agents provide services to two distinct sets of consumers: services to consumers trying to *sell* their home (in which case I refer to the agent as providing "sell-side" services) and services to consumers trying to *buy* a home (in which case I refer to the agent as providing "buy-side" services).[23]

30. In most cases, agents do not specialize with respect to whether they provide buy-side versus sell-side services, meaning that if the agent manages to acquire a customer interested in selling their home, they provide sell-side services, while if the agent acquires a customer interested in buying a home, they provide buy-side services.[24] The splitting of services between the buy-side and sell-side is quite common in the GTA: based on TREB data for 2010 and 2011, less than 12 percent of active agents focused their efforts (i.e., had 80 percent or more of their closed transactions) on just one side of the deal.[25]

31. Agents typically work out of a single real estate office location (a "brokerage") and are independent contractors (not salaried employees) under the supervision of a broker. Individual brokerages in turn often belong to a common corporate (or franchise) brokerage such as Re/Max or Royal LePage. Although corporate brokerages allow individual brokers some autonomy, those corporate brokerages can also set policy that individual brokers must follow.

32. Agents play an important role in the sale of the vast majority of homes in the GTA as well as the rest of Canada.[26] On the sell-side, the services that agents have traditionally provided include educating the seller about the market and the process of selling a home, helping the seller

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National Pool Website or Member Feed Website." ["Data Distribution Policy and Rules," CREA, November 4, 2011 (CREA00033030 at '035), *emphasis added.*]

[22] Agents who pay dues to the CREA can call themselves "REALTORS," a trademarked label. [www.howrealtorshelp.ca/faq.php#agent-vs-realtor.] Whether or not the agent is a member of CREA, they must meet local licensing laws. In this report, I do not differentiate between whether an agent is a REALTOR or not.

[23] The real estate industry uses a different nomenclature to refer to these agents, referring to the agent serving the seller as the "listing agent," and referring to the agent serving the buyer as the "selling agent" or "cooperating agent" or "buying agent."

[24] In fact, an agent may be able to provide both types of services to the same customer if the customer is interested in selling their home so that they can purchase another home in the same area.

[25] In calculating this statistic, I focused on agents with more than 10 total closed transactions during the time period. When I focused on agents with more than five closed transactions, this percentage is just over 15 percent. Looking at agents with fewer closed transactions would potentially distort the measure, e.g., an agent with just one transaction would show up as having 100 percent of their listings as either buy-side or sell-side.

[26] See note 15.

determine the right price at which to list their home, marketing the seller's home, and helping the seller evaluate any offers that a buyer may make and what types of counter-offer strategies can be pursued.

33. On the buy-side, agents have traditionally helped educate buyers about the market and the process of purchasing a home, educating the buyer about the neighbourhoods and types of homes the buyer can afford, how prices differ across neighbourhoods, what homes are available that meet the buyer's criteria (e.g., price range, neighbourhood, and number of bedrooms), alerting buyers to when new homes come onto the market that meet the buyer's criteria, and alerting buyers if an existing listing is re-priced to fall within the buyer's price range. Buy-side agents have also traditionally spent a considerable amount of their time visiting homes with their customer so that the buyer can better evaluate whether the home has sufficient appeal for the buyer to make an offer. And finally, buy-side agents work with their customer to assess what bid to put in for a home, with that decision based (in part) on how "hot" the real estate market is, and an estimate of how accurately the listing price reflects the home's true value.[27]

2. Agents are compensated through commission payments

34. In return for their services, agents typically receive a commission based on the sale price of the property. I understand that this commission is typically (although not always) split equally between the sell-side and the buy-side agent.[28] In most cases, this commission is paid entirely by the home seller, although the seller's commission payment will generally be factored into the price set by the seller, and thus results in an indirect payment from the home buyer.[29] In some cases, however, buyers agree that their agent will receive a minimum commission and, if the payment from the home seller does not cover that minimum, the buyer will make up the difference.[30]

35. Commission payments serve as an incentive payment to induce effort by agents. On the sell-side, higher commissions increase an agent's incentive to work harder (and possibly invest more money) to market a home and to take the time to properly estimate the home's market

[27] See, for example, the Mark Enchin (Realty Executives Plus) Witness Statement, June 19, 2012 at ¶¶ 11-15 (hereafter, "Enchin (Realty Executives Plus) Statement") and the Scott Nagel (Redfin) Witness Statement, June 20, 2012 at ¶ 21 (hereafter, "Nagel (Redfin) Statement").

[28] Although there is little quantitative evidence available, there is a general industry belief that commissions are typically split between buy-side and sell-side agents. See, for example, RealtySellers' website: "Many real estate agents in Toronto are charging a 2.5% commission for listing services similar to ours." [http://realtysellersrealestate.com/ programs/seller-agency-services.]; this, in conjunction with the evidence discussed below that the predominant buy-side commission also is 2.5 percent, suggests that the commission is typically split. See also, for example, "Roseman: Yes, you can sell a home without an agent," *The Toronto Star*, May 23, 2011 ("Your [sell-side] agent and the buyer's agent will typically split a commission."); "The ins and outs of commissions," *The Toronto Star*, March 27, 2007; and "Working Party No. 2," at page 5.

[29] "Working Party No. 2," at page 5 ("Although buyers do not pay a direct fee to their brokers, some portion of the brokerage fees likely is built into the prices of homes for sale.").

[30] The broker with whom each agent is affiliated will typically keep a portion of that agent's commission.

value. On the buy-side, higher commissions increase an agent's incentive to find a home for their buyer, to spend the time visiting potential homes with their buyer, and to spend the time educating their buyer about the home purchase process. A seller that offers a higher commission to the buy-side broker is also more likely to encourage buy-side agents to bring that home to the attention of their buyer.

3. Agents compete for customers

36. Both buy-side and sell-side agents compete for customers. With respect to price competition, sell-side agents can compete for customers by offering to lower their commissions, while buy-side agents can compete by offering to share a portion of their commission or by giving the customer items of value (e.g., a $1,000 gift card).

37. While many economists believe that there has historically been only a limited amount of price competition among agents, there is general agreement that non-price competition plays an important role in this industry.[31] This non-price competition encompasses competition with respect to the service and the industry expertise agents offer, such as their knowledge about particular neighbourhoods (e.g., schools, possible zoning or development issues, or trends in housing prices) or services related to the real estate sale (e.g., obtaining a mortgage, preparing a house for sale). Agents also compete in terms of their availability on weekends or evenings, their willingness to provide additional information about homes or neighbourhoods to home buyers, or the amount of time they are willing to work with buyers that may not be immediately willing to make an offer on a home.

D. Principal-agent relationships create market distortions in the GTA

38. The incentives of brokers and agents are not necessarily always aligned with the incentives of consumers. This results in what economists often refer to as a "principal-agent" (PA) problem that creates certain market distortions.[32] As discussed below, VOW-based competition can mitigate those market distortions, and thus increase competition in the GTA.

[31] See, for example, Robert W. Hahn, Robert E. Litan, and Jesse Gurman, "Bringing More Competition To Real Estate Brokerage," *AEI-Brookings Joint Center for Regulatory Studies*, November 2005, at pages 2-3 and 6-10; United States Government Accountability Office, "Real Estate Brokerage: Factors That May Affect Price Competition," GAO-05-947, August 2005, at pages 3 and 7; and Waleed Muhanna, and James R. Wolf, "The impact of e-commerce on the real estate industry: Baen and Guttery revisited," *Journal of Real Estate Portfolio Management,* May/August 2002. See also Mark S. Nadel, "A Critical Assessment of the Standard, Traditional, Residential Real Estate Broker Commission Rate Structure," *AEI-Brookings Joint Center for Regulatory Studies,* October 2006, at pages 1 and 4-6 (Related Publication 06-28).

[32] Although I understand that there is also a legal concept and definition regarding "principal-agent" relationships, in my report, I use this term solely in the economic context.

1. Principal-agent relationships

39. Economists say that a "principal-agent" relationship exists when one party (the "principal") delegates responsibility and authority to a second party (the "agent"). PA relationships often arise when there is an information asymmetry in which the agent has more information about particular aspects of the market or when the agent can perform a service more efficiently than can the principal. A PA problem is said to occur when this type of delegation leads to undesirable outcomes.

40. PA relationships exist in a variety of different contexts and industries. A traveler, for example, may delegate responsibility to their travel agent to find the most convenient and economical flights, yet the travel agent's incentives may not be the same as the traveler's if the agent receives side-payments by the airlines to steer business their way. In this case, a PA problem arises if a traveler ends up on a flight that is not their preferred flight. Similarly, employees may not work as hard as their employer wants because of a misalignment between incentives of the employer and the employee. Here, a PA problem arises if the employee ends up shirking responsibility, or if the employer needs to hire additional managers in order to monitor employee's work.

41. A principal can often reduce the magnitude of PA problems by better aligning incentives. For example, employers may offer bonuses to employees to give them incentives to work harder, or offer stock options so that the employee's incentives to maximize the firm's profits become more aligned with the employer's incentives. Alternatively, the principal can try to become better informed, or otherwise less dependent on the agent, so that the principal need not rely so heavily on the agent.

2. Principal-agent problems in real estate

42. The real estate industry is characterized by a PA relationship between home buyers and sellers (the principals) and real estate agents (the agents).[33] Traditionally, agents have been more informed than consumers, in significant part because of their unique access to MLS data.[34] This

[33] The presence of a PA relationship, and the associated incentive problems, in the real estate industry has long been recognized in the academic literature. Theoretical treatments of the principal-agent problem in settings in which agents are paid percentage commissions are offered, among others, by David Geltner, Brian Kluger and Norman Miller, "Optimal Price and Selling Effort from the Perspectives of the Broker and Seller," *Real Estate Economics*, March, 1991; Paul Anglin and Richard Arnott, "Residential real estate brokerage as a principal-agent problem," *Journal of Real Estate Finance and Economics*, June, 1991; Thomas Miceli, "The Multiple Listing Service, Commission Splits and Broker Effort," *Real Estate Economics*, December, 1991; Abdullah Yavaş, "Seller-Broker Relationship as a Double Moral Hazard Problem," *Journal of Housing Economics*, September, 1995; and Oz Shy, "Real Estate Brokers and Commission: Theory and Calibrations," *The Journal of Real Estate Finance and Economics*, December 2010. These studies generally conclude that although the percentage commission system ensures the interests of the agent to be in the same direction as those of the seller, it fails to completely align their incentives, with the agent expending less effort than desired by the seller.

[34] As noted in a 2007 report by the USDOJ and USFTC regarding competition in the real estate industry, "Brokers and agents (hereinafter, 'brokers') usually are more informed about the local real estate market and the process of a

information asymmetry has led buyers and sellers (consumers) to delegate significant responsibility to the agent with whom they work.[35]

43. On the buy side, agents have historically been given significant responsibility with respect to identifying properties (or even neighbourhoods) for consumers to consider, and to help educate the buyer about homes and neighbourhoods. Buyers have also traditionally delegated significant responsibility to their agent with respect to assessing the market value of a property in which they are interested in making an offer and what price to offer (or how to respond to counter-offers). Similarly, consumers also delegate significant responsibility to agents on the sell side. Agents traditionally provide significant input into determining the appropriate list price for a home, whether subsequent price reductions are warranted, and whether to accept a buyer's below-list offer and what type (if any) of counter-offer to make.

44. PA problems arise in several contexts in the real estate industry due to a misalignment of incentives between consumers and agents.[36]

- *Prices and Matching of Buyers and Sellers.* Agents and consumers can differ with respect to their incentives relating to price: although a price change of $10,000 may be significant to a buyer or seller, for a particular agent splitting a 5 percent commission, a $10,000 change in a home's price only changes the agent's commission by $250.[37] Thus, an agent may care less about a home's selling price than do the buyer or the seller. As a result, an agent may encourage a seller to accept a lower offer (or set a lower initial price), even if it might have been in the seller's best interest to wait until a higher offer came along. Similarly, an agent might encourage a buyer to offer a higher price in order to close a sale, even if it would have been in the buyer's interest to keep looking.[38]

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real estate transaction than most home buyers and sellers. This informational advantage derives from two sources. First, *only brokers have direct access to the MLS* ...." ["Competition in the Real Estate Brokerage Industry," Federal Trade Commission and U.S. Department of Justice, April 2007 (hereafter, "2007 USDOJ/USFTC Real Estate Report"), at page 5, *emphasis added*.]

[35] As CREA notes, agents and brokers are, "a valuable and respected resource, helping consumers interpret property information and guiding them through the buying and selling process. Real estate professionals take a proactive approach to serving customers' needs, acting more like trusted advisers and consultants than salespeople or marketers." ["Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at pages 8-9.]

[36] *The Real Estate and Business Brokers Act* (REBBA) recognizes, and seeks to protect against, the inherent misalignment of incentives between the buyer and her buy-side agent in regards to the commission that the buy-side agent will receive: Section 19 titled "Properties that meet buyer's criteria" states that "[i]f a brokerage has entered into a representation agreement with a buyer, a broker or salesperson who acts on behalf of the buyer pursuant to the agreement shall inform the buyer of properties that meet the buyer's criteria without having any regard to the amount of commission or other remuneration, if any, to which the brokerage might be entitled." [Ontario Regulation 580/05 Made Under the Real Estate and Business Brokers Act, Code of Ethics – 2002, November 10, 2005.]

[37] Agents also typically have to share at least some of that commission with the broker under which they work.

[38] See, for example, Arnold, who shows that the agent's reservation price for the seller's house will generally differ from that of the seller [Michael Arnold, "The Principal-Agent Relationship in Real Estate Brokerage Services," *Real Estate Economics*, March, 1992.] Empirically, there is considerable evidence that the imperfect alignment of owner

- *Marketing effort.* An important traditional responsibility for a sell-side agent is to maximize a home's exposure among potentially interested buyers. The agent's efforts in that regard, however, cannot be easily monitored by sellers. This creates an incentive for the agent to exert less effort than desired by the seller. Commission payments in which a seller's compensation becomes contingent upon selling the home help address this mismatch in incentives, with increased commission rates likely to induce greater effort on the part of the agent.

- *Steering based on commissions*. An agent representing a home buyer has an incentive to steer their buyer away from homes offering a lower commission rate so as to protect their own commission-based compensation. For example, if there are two $500,000 homes on the market, one offering a 5 percent commission split and the other offering a 4 percent commission split, the agent will earn an extra $2,500 by steering their buyer towards the higher commission home.[39]

- *Steering based on joint representation.* Agents have a conflict of interest when there is an opportunity to create a match between a buyer and seller that are both represented by the

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and agent incentives on the sell-side bears substantial costs, with agents having the incentive to encourage sell-side customers to accept low offers to sell their property quickly. For instance, properties that are both owned and listed by the same agent, i.e. properties for which incentives of agent and homeowner are perfectly aligned, sell for higher prices than customer properties [Ronald C. Rutherford, Thomas M. Springer, Abdullah Yavaş, "Conflicts between principals and agents: evidence from residential brokerage," *Journal of Financial Economics*, June 2005; Ronald C. Rutherford, Thomas M. Springer, Abdullah Yavaş, "Evidence of Information Asymmetries in the Market for Residential Condominiums," *Journal of Real Estate Finance and Economics*, July 2007; Steven Levitt and Chad Syverson, "Market Distortions when Agents are Better Informed: The Value of Information in Real Estate Transactions," *Review of Economics and Statistics*, November 2008; and Lan Shi and Christina Tapia, "The Disciplining Effect of Concern for Referrals--Evidence from Real Estate Agents," August 2011, (http://faculty.wash-ington.edu/lanshi/Research/ referall_shi_tapia_2011aug_1_all.pdf).] Levitt and Syverson, who also find that agent-owned properties stay on the market longer, argue that "[h]omeowners are induced by their agents to sell too quickly and at a price that is too low."

[39] On the buyer side, the statistical evidence on the consequences of misaligned incentives between buyer and agent is less direct, though the theoretical arguments are clear, with suspicions that traditional agents steer customers away from homes listed on the MLS at flat fees or by discount brokers [Steven Levitt and Chad Syverson, "Antitrust Implications of Home Seller Outcomes when using Flat-Fee Real Estate Agents," *Brookings-Wharton Papers on Urban Economics*, 2008; and Ronald Rutherford and Abdullah Yavaş, "Discount Brokerage in Residential Real Estate Markets," *Real Estate Economics*, 2012.] They document that, while relatively rare, properties listed flat-fees or with discount brokerages experience longer times-on-market than similar houses sold by full-commission agents, but ultimately sell for similar prices, a pattern which they argue is consistent with traditional (full-commission) agents steering potential buyers away from flat-fee-listed properties, as a form of collusive punishment against discount brokers. Similarly, Jia and Pathak show that higher commission rates are associated with higher likelihoods of sale, and modest impacts on the days on the market [Panle Jia and Parag Pathak, "The Impact of Commissions on Home Sales in Greater Boston," *American Economic Review*, May 2010.] See also Hahn, Litan and Gurman, 2006, at Nadel 2006 *supra* note **43**; and Matthew Magura, "How Rebate Bans, Discriminatory MLS Listing Policies, And Minimum Service Requirements Can Reduce Price Competition For Real Estate Brokerage Services And Why It Matters," U.S. Department of Justice, Economic Analysis Group Discussion Paper, 2007. For an anecdotal account of reprisals against and steering away from a discount agent, see Jon Birger, "The 4 1/2% Solution," *Money Magazine*, October 1, 2004 (http://money.cnn.com/magazines/moneymag/moneymag_archive/2004/10/01/ 8186561/index.htm).

same agent (or their brokerage). These situations are referred to as "joint representation," "multiple representation," and "dual agency."[40] Because dual agency situations mean the brokerage (or the agent) gets the commission on both sides of the real estate transaction, agents can have strong incentives to encourage dual agency outcomes.[41]

E. Commission payments in the GTA

45. Despite the presence of approximately 34,000 competing agents in the GTA, agents receive substantial commission payments from home sellers. As shown in Exhibits 1a and 1b, the average selling price for a home in 2011 in the GTA was approximately $455,000.[42] As shown in Exhibit 2a, the buy-side commission rate applicable to the vast majority of those sales was 2.5 percent.[43] This resulted in an average buy-side commission of $11,239 (Exhibit 2c) for homes sold in 2011. Assuming an equal commission split between buy-side and sell-side agent,[44]

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[40]According to a OREA brochure: "Occasionally a real estate brokerage will represent both the buyer and the seller. The buyer and seller must consent to this arrangement in writing. Under this multiple representation arrangement, the brokerage must do what is best for both the buyer and the seller. Since the brokerage's loyalty is divided between the buyer and the seller who have conflicting interests, it is absolutely essential that a multiple representation relationship be properly documented." [OREA, "Working With A REALTOR – The Agency Relationship," June 2006, http://www.ontariorealestatesource.com/images/Working%20With%20 a%20Realtor%20~%20 Explained.pdf.] Similarly, the Redfin's real estate website states: "Dual agency occurs when the listing agent selling a home also serves as the buyer's agent. In most cases, it's not a good idea for one agent to represent both parties in a real estate transaction. The listing agent's job is to sell a home at the highest price; the buyer's agent aims to negotiate the lowest price for his buyers. In this case, the agent and his client's interests aren't aligned. Some buyers feel that a dual agent will be more motivated to write an offer on his own listing since he'll get double the commission from both sides of the deal. This could be a possibility, but chances are the buyers won't get the home for the best price when working with the listing agent" [http://www.redfin.com/definition/dual-agency.]

[41] The principal-agent problem is particularly acute when the buyer and seller are represented either by the same brokerage or, in the extreme, by the same broker. In the latter case, the agent can't hope to fulfill his responsibility of serving both parties' interests. Kadiyali, Prince, and Simon consider the consequences of dual agency and find, among other things, that on fast deals (sales within 21 days), list and sale prices are significantly higher on houses sold via dual agency [Vrinda Kadiyali, Jeffrey Prince, and Daniel H. Simon, "Is Dual Agency in Real Estate Transactions a Cause for Concern?" *Indiana University Kelley School of Business Working Paper 2010-12*, 2009.] This pattern is consistent with "first-resort selling", whereby agents first show houses with desirable characteristics to in-house buyer customers, and reflects a misalignment of incentives. See also Gardiner, Heisler, Kallberg, and Liu, who find that dual agency significantly reduces sales prices in Hawaii [J'Noel Gardiner, Jeffrey Heisler, Jarl Kallberg, and Crocker Liu, "The Impact of Dual Agency," *The Journal of Real Estate Finance and Economics*, July 2007.] However, following legislation requiring agents to disclose dual agency relationships in writing to both parties to a transaction, the influence of dual agency declined substantially "(8.0 versus 1.4%)."

[42] Exhibits 1a and 1b differ slightly with respect to the numbers they show since Exhibit 1a looks at prices in June of each year, while Exhibit 1b looks at prices averaged across the entire year. Exhibit 1c provides more detailed information on prices by community within the GTA.

[43] The MLS data shows the offered buy-side commission. In some cases, the actual commission may end up differing from the originally offered commission. Throughout this report, I assume that the offered buy-side commission provides a good estimate of the actual buy-side commission.

[44] I carry through this assumption of an equal commission split in the remainder of the report whenever I refer to overall commissions. This assumption is likewise maintained by Panle Jia and Parag Pathak, "The Impact of Commissions on Home Sales in Greater Boston," *American Economic Review*, May 2010, and Panle Jia Barwick and Parag Pathak, "The Costs of Free Entry: An Empirical Study of Real Estate Agents in Greater Boston," *NBER Working Paper No. 17227*, July 2011. I note, however, that this assumption may result in an underestimate of

Exhibits 2b and 2c shows that the overall commission rate for the vast majority of properties in the GTA is 5 percent, with an average overall commission payment of $22,479 for homes sold in 2011.[45]

46. It is also instructive to look at changes in commission payments over time. Over the last five years, the average total commission rate (whether looking at the buy-side commission or the estimated overall commission rate) has stayed relatively constant at approximately 5 percent (see Exhibit 2a and 2b).[46] At the same time, the average sales price of homes covered by TREB has increased from $369,000 to $455,000 (Exhibit 1b). As a result of rising sales prices, but steady commission rates, total average commission payments increased by nearly 23 percent ($18,300 to $22,500) from 2007 to 2011.

IV. VOWS REPRESENT AN INNOVATION IN HOW BROKERS CAN COMPETE

47. VOWs provide brokers and agents a new, innovative means by which they can compete to provide real estate services to consumers. There is no single format for a VOW, however, as brokers can structure their VOWs in whatever way they think will allow them to compete most effectively.

A. VOWs are a means by which brokers can compete

48. According to a report done on behalf of CREA, "Virtual Office Websites are considered to be simply another means of carrying on business as a real estate broker."[47] This is a generally accurate characterization, with the principal caveat that VOWs are not "simply" one more way in which brokers can compete. Instead, VOWs represent an important new and innovative means by which brokers can compete, with VOW-based competition promising to substantially increase both price and non-price competition and result in significant consumer benefits.

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overall commission payments. For a small share of transactions in the GTA, the buy-side commission in the MLS is $1. In these cases, the sell-side commission likely exceeds $1 as estimated according to the equal commission split assumption. The total commission is also likely to be understated since, in some cases, the buy-side agent has a guaranteed minimum commission that exceeds the buy-side commission offer.

[45] Exhibits 2d and 2e provide more detailed information on average buy-side and overall commission payments by community within the GTA.

[46] In this analysis, and most of the other MLS-based analyses I conduct, I focus on "sold" homes.

[47] Ralph Winter, "Competition Law Issues in the Tying of the MLS and mls.ca: An Economic Analysis," January 20, 2004 (CREA00029955/TREB00053402 at CREA00029960). See also TREB's VOW rules and policies which define a VOW as follows: "A 'Virtual Office Website' or 'VOW' is a Member's secure password protected internet website, or a feature of a Member's internet website, through which the Member is capable of providing real estate brokerage services to consumers ...." [TREB's "Virtual Office Website (VOW) Rules and Policies" (TREB00006904 at '920).]

B. VOWs reduce consumers' need to rely on brokers as an information intermediary

49. Traditionally, brokers and agents were the only parties with access to the MLS. This access allowed agents and brokers to position themselves as an information intermediary through which consumers were forced to work.[48] For example, a buyer might specify a particular neighbourhood or city in which they were interested, a price range, and the number of bedrooms and bathrooms they sought, at which point the agent would search the MLS and then provide information about homes with those characteristics, either in a face-to-face meeting with the potential buyer or perhaps via email, fax or phone. Unless the buyer traveled to the home(s) the agent identified, however, the information that the agent could provide was generally limited by today's standards: the buyer might see the address and certain characteristics of the house (e.g., the number of bedrooms and bathrooms, whether the home was colonial, split-level, or ranch-style, the age of the house, and perhaps one or two photos).

50. This process in which the agent conducted the search for the buyer could be time consuming and labor-intensive: whenever the buyer's search parameters changed, the agent would have to run a new search and then re-send the results to the buyer.[49] This process could create significant delays in which agents were not available to conduct the search immediately after the buyer provided new search parameters and then immediately send the results to the buyer. The process of running these searches could also account for a significant portion of each agent's day.[50]

51. VOWs represent a significant departure from this traditional process. Rather than requiring the agent to serve as the gateway and intermediary to the information the buyer wants,

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[48] See, for example, Ontario's Superior Court of Justice characterizing TREB member real estate agents as an "intermediary" through which members of the public received listing information. [*Fraser Beach Opinion* at ¶ 19 (GRMR0012_00000285).]

[49] Modifying the search parameters is particularly common at the outset of buyers' home searches. Buyers just learning of the market may need to run multiple searches as they discover they can't afford the type of home they wanted in a particular area, and thus need to search in different areas that might be more affordable. Alternatively, after seeing what they can get in a particular price range, buyers may decide they want to consider more expensive homes than they previously considered. Similarly, buyers may decide that, in order to find an affordable home, they need to search for homes with fewer bathrooms, or without a garage, or located on a smaller lot.

[50] See Enchin (Realty Executives Plus) Statement at ¶ 10 indicating that running those searches takes approximately 20 to 30 minutes per day for each active customer. See also McMullin (ViewPoint) Statement at ¶ 35 stating that allowing consumers to conduct their own searches, rather than having the agent conduct the searches on behalf of the consumer, "avoids the labour-intensive time and cost of ViewPoint, or more generally, a Realtor personally, conducting searches for relevant MLS information after receiving a request from a consumer .... The time to gather the MLS information, combine it with relevant non-MLS information and package it for the customer would make such work virtually impossible to do for many customers at once without a large number of people (Realtors) working for our brokerage. We can do all of this work for our customers through viewpoint.ca, freeing the Realtors' time to focus on work that adds additional value to customers of the brokerage, such as showing properties and negotiating transactions." See also McMullin (ViewPoint) Statement at ¶ 86.

buyers can use brokers' VOWs to search the MLS themselves.[51] [52] Through the use of VOWs, buyers can run as many searches as they want, with as many variations on those searches as they want, in a short period of time, and at whatever time of day (or day of week) that the buyer finds to be convenient. For each home that meets the buyer's search criteria, the buyer can then immediately view information that can inform them about whether the home warrants further consideration (e.g., a home visit).[53]

52. VOWs can also provide consumers with information relating to home values in particular neighbourhoods. This information can be useful to both buyers and sellers in determining market prices for homes, and to help assess how "hot" the market is in a particular area and thus how quickly an offer may need to be made and the extent to which the contract price will likely differ from the list price.[54] The MLS data that VOWs can offer in that regard include recent sold data and "pending sales" in which the property is under contract but where the sale is not yet finalized.

53. Finally, VOWs can provide consumers with linked information that is *not* contained in the MLS database but that may be relevant to a buyer's home search. This additional information specific to particular homes (or neighbourhoods) might include mapping, or information about local schools, demographics, or public transportation.

C. Access to listing data is critical for VOWs

54. In some cases, a VOW will not have access to all MLS data: either some listings will be excluded from the database that a consumer can access through a VOW, or the consumer may not be able to see all the data fields contained within an MLS (e.g., a home's price history). In those cases, a broker may still be able to offer a VOW, but the VOW may be significantly less attractive to consumers, and thus a less effective means by which the agent can compete.

55. In general, consumers want access to as much information as possible. As stated by TREB in its 2009/2010 Strategic Plan:[55]

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[51] See, for example, Ontario's Superior Court of Justice Fraser Beach characterizing how websites such as BNV's VOW-like website remove the "buffer" that agents and brokers create between the consumer and MLS listing information. [*Fraser Beach Opinion* at ¶ 88 (GRMR0012_00000285).]

[52] There may be some special fields in the MLS database to which the consumer will not have access even in a VOW for safety or security reasons, e.g., the name of the seller, a note to agents interested in showing the home that "nobody is home between 9 – 5," or "home alarm system can be disabled with the code 1-2-3-4-5." In referring to "full MLS access" I do not refer to those MLS data fields that are not at issue in this litigation.

[53] See generally McMullin (ViewPoint) Statement for more detailed description of the types of services that VOWs such as ViewPoint offer.

[54] See, for example, Pasalis (Realosophy) Statement at ¶ 32.

[55] TREB Strategic Plan, 2009/2010, September 17, 2009 (MBEF0018_00001941/TREB00057729 at MBEF0018_00002012-'2014).

- "Consumers are more informed than ever through use of the Internet and have higher expectations."
- "… the public demand[s] more instantaneous communications and access to information, particularly via the Internet."
- "Consumers will continue to seek independence and information empowerment."
- "Consumers are demanding more localized and market specific information."

56. Other documents similarly attest to the importance that consumers attach to getting comprehensive information about the real estate market:

- "Consumers today are looking for web presences that offer lots of options for searching as well as content to educate them on home ownership."[56]

- "Consumers and Realtors have come to rely on the ability of MLS to market properties. The fact that Realtors and consumers can find nearly all listed properties, and the very best and timely sales information, in one place is of enormous importance to the continuing success of MLS…"[57]

57. Given that consumers demand comprehensive real estate information, VOWs with limited data feeds will be less attractive, and thus less competitively significant, than VOWs with more complete data feeds.[58]

D. VOWs can take many forms

58. The manner in which brokers use VOWs to provide real estate services, and the structure of their VOWs, can differ. This provides significant diversity of choice for consumers and creates incentives for brokers to compete to offer the most attractive VOW-based services.

1. VOWs can differ in the services they provide

59. As TREB acknowledges, VOWs are more than a simple means by which consumers can search the MLS data: "[t]he operation of a VOW [is] a more robust concept than merely an access point to listing information...."[59] Rather, VOWs provide a means by which consumers can

[56] An email from Richard Silver (President of TREB) with an attachment for TREB members titled "What does a Virtual Office Website Do?" dated August 26, 2011 (TREB00049524 and TREB00049525).

[57] "Electronic Data Usage Task Force Report," CREA, October 2003 (GPJR00020279/CREA00038626 at GPJR00020266). Hereafter, referred to as the "2003 CREA EDU Task Force report." John Di Michele (current Chief Information Officer of TREB) and Richard Silver (current President of TREB) were both members of the 2003 CREA EDU Task Force.

[58] See, for example, Enchin (Realty Executives Plus) Statement at ¶ 30.

[59] MBEF1714_00000005/EX000110 at MBEF1714_00000020.

interactively access MLS data, link these data with other data sources, and conduct personalized analyses of those data.

60. While all VOWs rely on the same underlying MLS data feed, VOW-based brokers can compete with respect to the type of VOW information interface they believe consumers will most value. Dynamic competition over time can be expected to cause VOW-based brokers to continue to offer innovative new services, and thus move beyond simply providing consumers with a useful data search tool to instead offer consumers a more full-featured, integrated means of using real estate information.

a) Diversity in search abilities and data access

61. Dynamic competition leads to constant evolution in how VOW-based brokers allow consumers to search listings and access data. For example, while VOWs were traditionally accessed over a desktop computer, more and more brokers now allow consumers to access their VOW using mobile devices (e.g., cell phones, iPads), with a VOW interface tailored to those different devices. Similarly, VOWs can differ in the search criteria they offer, differing, for example by whether the search can be limited to foreclosure properties, homes that have been on the market for a given period of time, or homes with particular characteristics (more than 1 acre of land, or a lower level master bedroom).

b) Diversity in tools for data analysis

62. VOWs are not simply a vehicle by which consumers can access raw MLS data and conduct searches. Brokers can also offer VOW-based tools through which consumers can then *analyze* those data.[60] For example, although TREB's MLS data does not include a full price history for a given home (for a given listing, the MLS data only shows the original list price and the current list price), a VOW can use MLS data over time to collect and show consumers a full price history for a home. This full price history can be very useful to buyers.[61]

63. A VOW can also be used to help buyers detect "gaming" on the part of sellers whereby a home that has languished on the market is pulled off the MLS, only to be re-listed the next day so that it appears to be a "fresh" new listing; here, a VOW could identify such pull-and-relist instances and allow buyers to see important information associated with that previous listing (e.g., how long the home has "really" been on the market and all price changes during that time).

[60] See, for example, Nagel (Redfin) Statement at ¶ 32 who describes some of the analytical tools his VOW provides that are based off of MLS data, as well as Pasalis (Realosophy) Statement at ¶¶ 13-14.

[61] For example, it is not uncommon for sellers having difficulty selling their home to temporarily raise price, only to immediately lower it so that they can market a significant "price reduction." Absent information about the full price history, a buyer may not be able to tell that the $20,000 price reduction from $500,000 to $480,000 hides the fact that, but for a temporary price increase to $500,000, the home had always been selling for $480,000 so that the price reduction was largely fictitious.

64. Another useful tool that a VOW can offer buyers is the ability to quickly analyze factors such as days on market, list to sell prices, or average prices for a consumer-selected set of properties or neighbourhoods. The consumer's ability to determine the search criteria to zoom-in on particular properties or neighbourhoods greatly enhances the usefulness of the available data. Realosophy emphasizes this point on its website:

> "You often see stats for Toronto Real Estate Board areas that are big and diverse. We zoom into real Toronto neighbourhoods—Leslieville, Riverdale, Blake–Jones—because that's how you actually buy and sell houses."[62]

c) Diversity in linkages to other data

65. Although MLS data is critical to offering a successful VOW, MLS data is not the only useful data that VOWs provide to consumers. Increasingly, VOWs allow consumers to easily link with other types of information.[63] For example, after a consumer searches the VOW to find homes in a given area and price range, the consumer might then be able to click on web-links to see what schools serve a particular area, the public transportation in the area, or crime rates in the area. And, even though much of this non-MLS data is likely available through other sources, VOWs offer consumers the ease of convenient and immediate linkages: with a click of the mouse a consumer can determine the elementary school district for a particular home rather than having to switch back and forth between different information sources (once those alternative information sources have been found).[64]

2. Brokers can differ in how they use VOWs

66. Brokers differ with respect to the extent to which they base their business model on VOWs. At one extreme, some brokers rely heavily on a VOW-based business model to attract customers and conduct their business. These brokers include ZipRealty and Redfin in the United States, and TheRedPin in the GTA.[65] At the other end of the extreme, some brokers offer both traditional brick-and-mortar services as well as VOW services.[66] Still other brokers choose to partner with "technology providers" in deals where the broker continues to focus on providing

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[62] http://www.realosophy.com/Analytics/Main.aspx.

[63] See, for example, Nagel (Redfin) Statement at ¶ 2.

[64] See, for example, Urmi Desai (Realosophy) Witness Statement, June 20, 2012 at ¶ 24 (hereafter, "Desai (Realosophy) Statement") describing how the Realosophy VOW provides detailed information about the schools near each listing, including information such as enrollment, a link to the school's website, test scores and student demographic information.

[65] As stated in one TREB discussion, "Presently available in a few other parts of Canada, and in the United States, these [VOWs] may run as stand-alone brokerages or be adopted by Brokerages looking to expand their present business model." [TREB00036112.]

[66] See, for example, the VOW operated by Dee Hnatko of RE/MAX Sabre Realty in Port Coquitlam, British Columbia [http://homesforsalevancouverbc.com.]

more "traditional" brokerage services, while the technology provider focuses on designing and operating the broker's VOW and using that VOW to help the broker.[67]

3. VOWs can be marketed to buyers and/or sellers

67. In many cases, VOWs are marketed principally to potential buyers. VOWs often attract buyers by offering a convenient means to search listings, to learn details about individual listings, to learn how home prices differ by neighbourhood, to see how quickly homes are selling and the extent to which final prices differ from the list prices, and in some cases, by offering a commission rebate.

68. VOWs are also used by brokers to compete for the business of home sellers. VOW-based brokers are potentially attractive to sellers for several reasons. For home sellers, VOWs can offer lower commissions, a means by which sellers can easily track consumer interest in their home, and a tool to help set the initial listing price, decide whether subsequent price adjustments are warranted, and assess the fairness of any below-list offers that may be made.[68]

4. VOWs sometimes offer significant price reductions

69. In some cases, VOWs offer significant financial rebates or similar means of providing cash back to buyers or sellers.[69] For example, TheRedPin, RealtySellers, and Realosophy, three newly emerging VOWs in the GTA, each offer significant discounts and rebates.[70] On the buy-

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[67] See, for example, Enchin (Realty Executives Plus) Statement at ¶¶ 5 and 23 describing how he has marketed his VOW to other brokers. Similarly, ZipRealty in the United States is serving as this type of technology provider in areas where it has no presence of its own. In those areas, ZipRealty partners with more traditional brokers and provides those brokers access to ZipRealty's technology. ZipRealty refers to this as its "Powered by Zip" program. [http://onlinepress room.net/ziprealty.]

[68] For example, Redfin's HomeReport gives monthly updates on market activity that can help assess whether to re-evaluate what price the seller should set/accept. Redfin anticipates further expanding the set of services it offers to home sellers, noting on its website, "Over the coming months expect to see more and more features for home owners and sellers as we build a suite of tools to rival those that we've built for serious home buyers." [http://blog.redfin.com/blog/2011/12/keep_tabs_on_your_neighborhood.html] See also Nagel (Redfin) Statement at ¶¶ 23-24 for a description of the services that Redfin's VOW provides to home sellers.

[69] This is not always the case, however. For example, in the United States, ZipRealty appears to have concluded that it offers such high quality that a price reduction to buyers is no longer necessary to attract customers. Although ZipRealty formerly rebated 20 to 25 percent of its commission back to consumers, ZipRealty has recently stopped offering those rebates ["ZipRealty Continues Strategic Progression – Series of Changes includes the discontinuance of buyer rebate program," ZipRealty Press Release, July 1, 2011 (http://www.sec.gov/Archives/edgar/data/1142512/000114420411038685/v227572_ex99-1.htm).] This decision appears to reflect a decision to instead use those funds to maintain its status as a provider of full-service brokerage services. In announcing its decision to discontinue the rebate program, Lanny Baker, the Chief Executive Officer of ZipRealty, stated that "Extensive customer surveys and a series of pilot tests revealed that our current rebate program is not the primary driver for choosing to work with ZipRealty and our talented agents. Recent tests and focus groups have shown that consumers are motivated to use ZipRealty because of our technology and our service-oriented local real estate agents." Thus VOWs provide important innovative services regardless of whether they also offer lower prices.

[70] As of the time of this report, RedPin appears to be offering a fully functional VOW in the GTA. My understanding is that RealtySellers and Realosophy both have requested a VOW data feed from TREB and both plan to offer a VOW, but that they do not yet offer full functionality. [Answers to Undertakings Given on the

side, TheRedPin and RealtySellers offer to rebate 25 percent of their commission to customers.[71] On the sell-side, Realosophy charges a commission of only 1.5 percent,[72] while RealtySellers offers a sell-side commission as low as 0.5 percent.[73]

70. The magnitude of the savings that VOWs offer can be substantial. For a $400,000 home with a 2.5 percent buy-side commission, TheRedPin's rebate to the buyer would be $2,500.[74] On the sell-side, a RealtySeller's sell-side commission discount from 2.5 percent to 0.5 percent would save the seller $8,000 for a $400,000 home.[75]

71. Whether working on the buy-side or the sell-side, VOWs do not force consumers to trade off lower prices for a reduced level of services. Rather, VOWs typically claim to provide the same (or even better) services than what full-commission agents offer in the traditional brick-and-mortar environment.[76]

Examination for Discovery of Donald Richardson, April 20, 2012, Question No. 2337 at Tab 1 (requesting VOW data feeds).] Lawrence Dale of RealtySellers has stated his concern that offering a VOW without the excluded MLS data fields would put him at a disadvantage relative to traditional brick-and-mortar brokerages. [Affidavit of Lawrence Mark Dale, September 1, 2011, at page 6.] Characterizations of RealtySellers and Realosophy's VOW sites are based on my understanding of the services and characteristics of the products they anticipate offering. ["The End of Realtor.ca?" John Pasalis, President of Realosophy, July 20, 2011 (TREB00037052); "Toronto Real Estate: Traditional Realtors Face Challenge by Online Players," *The Toronto Star*, February 24, 2012 (http://www.thestar.com/business/article/1136370--toronto-real-estate-traditional-realtors-face-challenge-by-online-players).]

[71] http://www.theredpin.com/realty/theredpin-rebate-program and http://realtysellersrealestate.com/programs/for-buyers.

[72] http://www.realosophy.com/Corp/SellerServices.aspx.

[73] According to RealtySellers' website: "Many real estate agents in Toronto are charging a 2.5% commission for listing services similar to ours. We will provide professional real estate agency and marketing services to help you through every step of the selling process at a fraction of what many other agents would charge." [http://realtysellers realestate.com/programs/seller-agency-services.]

[74] Based on TREB's MLS data, these values represent typically home prices and commissions in the GTA: the median price for sold homes in the GTA in 2011 was $399,000, while 84% of homes had a buy-side commission of 2.5 percent.

[75] See also Nagel (Redfin) Statement at ¶ 54 indicating that the average savings in 2011 for consumers in the 20 U.S. metropolitan regions in which Redfin operates were $5,386 for sellers and $6,188 for buyers.

[76] According to TheRedPin's website: "TheRedPin is a full service brokerage, with expert sales representative on your side helping you every step of the way. With our technology and volume of work we can afford to offer you the same discounts without compromising the quality and range of services you receive." [http://www.theredpin.com/ realty/compare-theredpin.] According to RealtySellers' website: "We act as your full service buyer agent…. Many real estate agents in Toronto are charging a 2.5% commission for listing services similar to ours. We will provide professional real estate agency and marketing services to help you through every step of the selling process at a fraction of what many other agents would charge…. We act as your listing or sellers agent. Some of our specific services include: -Prepare and discuss a Competitive Market Analysis -Provide Sold updates during the currency of the Listing -Prepare all of the listing documents -Measure the house -Photograph the house -Post the listing on the Toronto Real Estate Board and Realtor.ca -Show the home to prospective buyers on a customer basis -Communicate with selling agents as your agent -Ensure that agents know when offers will be presented and any other required information they may need to sell your home -Present and negotiate offers -Manage satisfaction of contingencies and conditions -Collect and hold the deposit in a regulated and insured Trust Account -Deliver complete document

V. THE CONDUCT AT ISSUE

72. This section identifies the TREB conduct that raises competitive concerns. Defining this conduct facilitates subsequent discussion of the markets in which that conduct is believed to have had an anticompetitive effect and the analysis of how that conduct was likely to reduce competition.

73. As discussed below, TREB has not only taken action to discourage agents' use of VOWs in the GTA, TREB has actively prevented agents from using VOWs as a means of competing. Until August 2011, TREB had no formal policy regarding VOWs but through its actions TREB made clear that agents could not use VOWs as a means of competing. In the midst of the litigation with the Commissioner of Competition, TREB adopted a formal VOW policy in August 2011 and began providing a VOW data feed in November 2011. Yet, while TREB's 2011 VOW policy allows brokers to offer VOWs, TREB's restrictions on the information that brokers can show consumers on a VOW continues to significantly disadvantage VOW-based brokers, and thus substantially reduces competition.

A. Before late-2011, TREB excluded VOW-based brokers from the market

74. Although TREB had been internally debating what (if any) policy it should adopt regarding VOWs as early as 2003, until August 2011 TREB had no formal VOW Policy (and did not provide a VOW data feed until November 2011).[77] Instead, prior to August 2011 TREB took the position that VOWs were a form of advertising.[78] Thus, TREB differentiated between whether agents asked consumers to come into their office to see listing information versus instead allowing the consumer to see that same information over the Internet. The former was deemed a normal part of how agents conducted business, while the latter, even though it involved the *same* information, was considered advertising.

75. The penalty for violating TREB's policy with respect to a broker providing MLS access on its VOW was severe: termination of the broker's access to the MLS database, both with respect to the broker's VOW operations and any more traditional operations the broker might

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package to your lawyer and other parties as required -Manage the transaction process until closing." [http://realtysellersrealestate.com/programs/for-buyers.]

[77] See minutes from an October 2010 Ad Hoc Committee Meeting that indicates that TREB had been discussing VOWs with CREA for "several years" [TREB Ad Hoc Committee Meeting, October 2010 (TREB00034698 at '699).] See also, the 2003 EDU Task Force report that discusses VOWs ["Electronic Data Usage Task Force Report," CREA, October 2003 (GPJR00020279/CREA00038626).] and a "GTA News" article that states: "… TREB's Board of Directors noted its commitment to develop a VOW policy in the July 2010 Strategic Plan." [TREB "GTA News" Article, June 2011 (MBED0042_00000578/TREB00003911).] A TREB press release from November 2011 announced the start of the VOW data feed in the GTA. ["GTA REALTROS Roll-Out Virtual Office Website Service," TREB News Release, November 24, 2011 (TREB00008175).]

[78] Richardson testified that TREB may continue to view VOWs to be a form of advertising [Examination for Discovery of Donald Richardson, April 3, 2012, at pages 529-530.]

have.[79] For three brokers in the GTA, TREB followed through with this threat. When BNV Real Estate and its Broker of Record (Fraser Beach) began offering a VOW in the GTA, TREB promptly terminated their access to the MLS.[80] When BNV partnered with another brokerage, RealtySellers, to regain the MLS access necessary to operate its VOW, TREB responded by terminating RealtySellers access as well.[81] Similarly, around the same time, another broker who attempted to operate a VOW in the GTA (Realty Executives Plus) had the MLS data feed that he was relying upon terminated by TREB.[82]

B. After late-2011, TREB disadvantaged VOW-based brokers seeking to compete

76. In August 2011, TREB adopted a formal VOW policy and in November 2011 it began providing its VOW data feed to agents.[83] TREB's policy recognized that VOWs were not a form of advertising that required listing agents' permission before information could be shown about listings, but instead constituted a new, innovative means by which agents could use the Internet to compete and provide valuable services to consumers.[84]

77. TREB's 2011 VOW policy can be summarized as follows. Brokers and agents can operate VOWs to provide real estate brokerage services to consumers for which the member establishes a relationship.[85] That relationship can be established over the Internet through the consumer's acceptance of certain Terms of Use, including confirmation that the consumer is

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[79] See P-508 of TREB MLS Rules and Policies.

[80] See Beach v. Toronto Real Estate Board, 2009, CanLII 68183 (ON SC). [http://canlii.ca/en/on/onsc/doc/2009/2009canlii68183/2009canlii68183.html.] I understand that BNV's website did not require users to register, thus failed to meet the formal requirements of a VOW. I am not aware of any evidence suggesting that TREB would have allowed BNV's continued operations, however, had that registration requirement been met. [http://www.remonline.com/home/?p=7412.]

[81] See *RealtySellers Ontario Limited v. Toronto Real Estate Board*, 2007, CanLII 50283 (ON SC). [http://www.canlii.org/eliisa/highlight.do?text=50283&language=en&searchTitle=Ontario&path=/en/on/onsc/doc/2007/2007canlii50283/2007canlii50283.html.]

[82] See Enchin (Realty Executives Plus) Statement at ¶¶ 28-31. Enchin states that TREB "disabled the download functionality that allowed me to download MLS listings in bulk from the TREB MLS system" and that, unable to provide the same services that he had previously offered, he exited the market.

[83] See announcement of TREB's new VOW policy [TREB Press release, August 25, 2011, (TREB00049441).] and the VOW policy itself. [TREB00006904.] This policy was adopted after the Competition Bureau entered into litigation with TREB over its treatment of VOWs.

[84] See, for example, TREB's June 24, 2011 press release in which TREB President Bill Johnston states that the new policy demonstrates TREB's receptivity to "new and innovative business models – improving the level of service for consumers and providing REALTOR Members with greater flexibility," [TREB Press Release, June 24, 2011 (TREB00048338).] Similarly, in its August 25, 2011 press release, TREB states that the new policy will allow agents "the ability to enhance the portfolio of services offered for the benefit of their customers." (TREB Press Release, August 25, 2011 (TREB00049441).]

[85] Access to TREB's MLS data is also available to "Affiliated VOW Partners" (AVPS), where an AVP is defined as an entity or person designated by a TREB member to operate a VOW on behalf of the member, subject to the member's supervision, accountability and compliance with the VOW Policy. [TREB's "Virtual Office Website (VOW) Rules and Policies" (TREB00006904).]

legitimately interested in the purchase, sale or lease of real estate of the type being offered through the VOW.[86] Consumers can then use their broker's VOW to search the entire MLS database, *except for MLS data that TREB designates as "confidential."*[87]

78. The data that TREB prohibits brokers from showing to consumers on their VOWs include the following.[88] I refer to these as TREB's "excluded data fields."[89]

- *Information regarding sold properties*;[90]
- *Information regarding pending sales*;
- *Withdrawn, expired, suspended or terminated ("WEST") listings*;
- *Information regarding offered compensation to the buy-side agent*.

79. I understand that TREB is effectively enforcing these rules by excluding all of the "excluded data fields" from the VOW data feed that it provides to brokers seeking to offer a VOW in the GTA.[91] In this way, TREB effectively prohibits brokers from showing, or using, those data fields on their VOWs.[92]

[86] This relationship is intended to mimic the same type of relationship that would exist in a brick-and-mortar context where a customer walks into a broker's office, or calls an agent, and expresses an interest in working with that broker or agent.

[87] The only exception is if the seller affirmatively directs the listing brokerage to withhold their listing or property address from display on the internet.

[88] As was the case before 2011, a broker that violates TREB's rules about what can be shown in the broker's VOW risks losing access to TREB's MLS.

[89] See Rule 823 of VOW Policy, 2011. [TREB00006904.] That policy also defines certain other data fields as confidential, including the seller's name and contact information, and remarks intended solely for the buy-side broker (e.g., alarm codes for entering the home). The absence of those data fields from the VOW data feeds is unlikely to reduce competition or harm consumers, and TREB's decision not to make those fields available is not contested by the Competition Bureau. Accordingly, those more competitively innocuous data fields are not included in what I refer to as the "excluded data fields."

[90] TREB states that sold data can only be made available on VOWs if doing so would not be in violation of Real Estate of Ontario (RECO) Rules and applicable privacy laws. This report is based on the assumption that these data can be provided.

[91] I understand that the technical operations of a VOW require that the MLS provide a distinct data feed that can be used by the VOW. That data feed can include all, or just a subset, of the data fields that are available in TREB's full MLS dataset. In this report, I sometimes use the term "MLS data feed" to refer to a VOW data feed based on the MLS data.

[92] In fact, by excluding those data from the VOW data feed, TREB prevents VOW-based brokers from using sold data even if those brokers believe that doing so would not be in violation of RECO rules and applicable privacy laws. I understand, however, that if brokers were to manage to download the excluded data fields from other sources and show those fields on their VOW, those brokers would risk being cut off from TREB's MLS.

80. I also understand that TREB's VOW data feed is also excluding other competitively significant data fields.[93] These data fields include:

- *Price change information*, including previous and original price information;
- *Days on Market*;[94]
- *Open house information*;
- *Virtual tour URL links*; [95] and
- *Accurate geocoding data*.

C. The conduct at issue discriminates against VOW-based brokers

81. Before late-2011, TREB discriminated against brokers seeking to compete by offering services over the Internet rather than in a more traditional brick-and-mortar setting: brokers were allowed to provide full MLS access to consumers in a brick-and-mortar setting, but not over the Internet.

82. After late-2011, TREB continued to discriminate against brokers seeking to compete by offering services over the Internet rather than the more traditional brick-and-mortar setting. This discrimination took the form of TREB preventing VOW-based brokers from accessing and using certain "excluded data fields" that brokers can use in a brick-and-mortar setting.

83. TREB's discrimination against VOW-based brokers, both before and after late-2011, constitutes what I refer to as "the conduct at issue." This conduct is what I focus upon in assessing whether TREB has likely substantially reduced competition and harmed consumers.

VI. MARKET DEFINITION AND MARKET POWER

84. Market definition in an Abuse of Dominance matter serves to delineate the goods or services likely to be affected by the conduct at issue. Market definition also helps to identify the

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[93] See McMullin (ViewPoint) Statement at ¶¶ 34 and 105. See also April 10, 2012 letter from John Pasalis, broker of record for Realosophy, to Richard Silver, President of TREB. [MDHF0003_00000003.] It is unclear whether these data limitations reflect TREB policy regarding data feeds or instead glitches in TREB's VOW data feed attributable to the fact that TREB has only recently begun offering that data feed. (See April 16, 2012 response by Silver to Pasalis indicating that TREB is interested in improving the effectiveness of their VOW feed.) Also see Tab 2A in TREB's Voluntary Information Request, November 9, 2010 (updated April 13, 2012) .

[94] I note, however, that contrary to statements made by ViewPoint and other VOW operators, TREB provided information that appears to indicate that days on market is one of the data fields provided to VOWs in the GTA. See Voluntary Information Request, Toronto Real Estate Board, November 9, 2010, updated April 13, 2012, at Request #28. [MBEF1717_00000005 at '017.]

[95] See Paul E. Carrillo, "Information and Real Estate Transactions: The Effects of Pictures and Virtual Tours on Home Sales," February 2008 [http://home.gwu.edu/~pcarrill/research_files/Carrillo.Pictures.Feb.28.pdf.], who finds that adding a virtual tour to a listing increases transaction prices and reduces days on market.

set of firms competing in the market, and thus that might be affected by the conduct at issue. Market definition is also an important predicate to assessing whether and why TREB has substantial market power and control over a market.

85. The two relevant markets in which agents and brokers compete are the provision of local buy-side and of sell-side real estate services that provide MLS accessibility. Although TREB itself does not compete in these two markets, the members whose interests TREB represents compete in those markets. Through its control of the MLS, access to which TREB's members need, TREB has substantial market power with which it can control the manner in which competition occurs, including whether competing agents and brokers are excluded from the market and whether they incur important disadvantages that reduce their competitive significance.

A. Market definition

86. In defining the relevant market, I focus on the goods and services likely to be affected by TREB's restrictions on how (and whether) agents and brokers can use VOWs to compete.

1. Product market: real estate services providing MLS accessibility

87. In my opinion, there are two relevant product markets affected by TREB's policies regarding VOWs: the provision of buy-side and the provision of sell-side real estate services that provide MLS accessibility.[96]

a) Buy-side and sell-side services fall in distinct product markets

88. To define the relevant product market, I first considered whether the buy-side and sell-side real estate services were good substitutes for each other from the perspective of consumers.

89. I am aware of no evidence suggesting that, in response to a small but significant change in relative prices, that individuals interested in selling their home would substitute to an agent that instead offered home buying services (e.g., helping to identify homes that fit certain search criteria, helping to arrange for a mortgage, or helping to assess market value for different homes). Similarly, an individual seeking to buy a home would not substitute to an agent that instead offered home selling services (e.g., help determining the right list price, and help

[96] In contrast, TREB appears to suggest that the relevant market consists of "platforms" (including TREB's MLS) that provide "methods, technologies, and means whereby a buyer and a seller (or their brokers) could meet and make a transaction" [Response of the Toronto Real Estate Board to the Amended Notice of Application, August 19, 2011, Concise Statement of Economic Theory, at ¶ 15]. Thus, TREB appears to be defining the relevant market in which its MLS competes. The market in which TREB's MLS competes, however, is not at issue in this case. Rather, the question is whether TREB's conduct affects competition among brokers and the benefits that consumers can reasonably expect to realize as a result of that competition. Accordingly, while access to TREB's full MLS data feed is an important issue, the relevant market in which harm is alleged to occur relates to brokers, not MLSs.

marketing the home). Accordingly, even though the same agent or broker may offer both types of services, consumers are not willing to substitute between those services.[97]

90. Brokers' websites provide evidence supporting the conclusion that consumers are unlikely to substitute between buy-side and sell-side services in response to a small change in relative prices. First, brokers frequently make a clear distinction on their website between the two types of services they offer: buy-side services and sell-side services.[98] Second, in cases where brokers offer commission discounts, those discounts are typically marketed either to buyers or to sellers. There is no indication that these discounts are marketed to all consumers as one would expect if consumers would be willing to substitute between services in response to small relative price changes.[99]

91. Accordingly, buy-side and sell-side real estate services lie in distinct product markets.

b) Agent and broker services are in the same product markets

92. I considered whether consumers view the services of real estate agents and brokers to be reasonably interchangeable. Although brokers and agents have different responsibilities and requirements, from the perspective of most consumers, both agents and brokers can (and do) help consumers buy or sell a home.

93. There is significant evidence supporting the opinion that agent and broker services fall in the same product market. I compared several websites to see if there were any clear distinctions in the types of services offered by agents versus brokers. I was unable to see any such distinctions in terms of the services that were being offered, in the prices they charged for their services, or the consumers to which the agents and brokers were marketing their services.

94. Accordingly, in my opinion, there would likely be significant substitution from agents' services to those offered by brokers (and vice versa) if the price of agents' services were to rise relative to brokers' services.[100] Accordingly, both agent and broker services belong in the same product markets.

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[97] In other words, although there may be supply-side substitutability, there is no demand-side substitutability.

[98] Even TREB's homepage delineates consumers' choices as falling in one of two categories: Buying and Selling. [http://www.torontorealestateboard.com.]

[99] The fact that some consumers want both buy-side and sell-side services does not obviate this conclusion. Even if a consumer is selling their existing home while at the same time buying another home, they can purchase those services from distinct agents, and the services they seek from their agent(s) will differ with respect to whether the agent is helping the consumer sell their existing home, or purchase a new home.

[100] The presence, or lack, of substitution in turn goes to the question of whether a hypothetical monopolist of those services would find that price increase to be profit-maximizing. "Defining relevant product markets usually begins by examining the product in respect of which the alleged abuse of dominance has occurred or is occurring, and determining whether close substitutes exist for that product. The Bureau generally employs the 'hypothetical monopolist test' to initially conceptualize substitutability between products ...." The Bureau also notes that "[a]lthough a usual step in establishing market power, market definition is not an end in itself and may defy

c) Discount and limited brokerage services are in the relevant sell-side product market

95. The evidence shows that discount and limited service brokers market their services towards consumers who might otherwise consider full-service/full-price brokerages and attempt to convince consumers to switch based on their lower price.[101] This shows consumer willingness to substitute between different levels of broker-provided service levels, as long as those services include access to the MLS. Accordingly, in my opinion, discount and limited service brokerage services are in the same relevant product market as full-service brokerage services.

d) Services without MLS access are not in the relevant markets

96. Consumers are generally unwilling to substitute between brokerage services that include MLS access and brokerage services that do not include MLS access. Supporting evidence includes evidence relating to the for-sale-by-owner ("FSBO") segment, the discount brokerage segment, and buyers' desire to work with agents that provide MLS access.

(1) There is no significant substitution involving FSBO

97. A home seller can "go FSBO" by trying to sell their home without the use of an agent. By doing so, a seller avoids the need to make significant commission payments to the sell-side agent. Going FSBO, however, means that home sellers cannot list their home in the MLS.

98. The evidence shows limited consumer willingness to substitute between using an agent that offers MLS access versus "going FSBO" and foregoing that MLS access based on small but significant changes in relative prices. A consumer's decision to go FSBO is typically driven by the desire to avoid paying a sell-side commission. Although a small but significant increase in the price of brokerage services would widen that gap, that price change is unlikely to cause much substitution at the margin. Consider, for example, a home selling for $400,000 and a commission of 5 percent. By going FSBO, a home seller could save $20,000 in avoided commission fees. That potential savings is sufficiently large to persuade at least some consumers to try the FSBO approach. Now consider a 5 percent increase in brokerage services. This would increase the commission to 5.25 percent, and thus result in a commission payment of $21,000. This $1,000 increase in potential savings is unlikely to cause much additional substitution since those

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precision." ["Enforcement Guidelines on the Abuse of Dominance Provisions (Sections 78 and 79 of the *Competition Act*)," draft, Competition Bureau, March 2012, at page 3 and note 8, (http://www.competitionbureau.gc.ca/ eic/site/cb-bc.nsf/vwapj/Abuse-Dominance-2012-03-22-e.pdf/$file/Abuse-Dominance-2012-03-22-e.pdf). Hereafter, "The Abuse of Dominance Guidelines".]

[101] See, for example, "Realosphy's ground-breaking 1.5% Home Selling Blitz offers today's home sellers comprehensive marketing and full agent services at a discount." ["The End of Realtor.ca," John Pasalis (Owner of Realosophy Realty Inc) and Urmi Desai, July 20, 2011.]; "Although the company [TheRedPin] offers commission rebates, it's a full-service brokerage and does not market itself as a 'discount brokerage." ["Toronto market sees first VOW operator", *Inman News*, February 16, 2012 (http://www.inman.com/InmanINF/ lowes/news/178245).]

consumers that were comfortable selling their own home would likely have *already* chosen the FSBO route to obtain $20,000 in savings.[102]

99. Consumers' unwillingness to substitute between using an agent and going FSBO for small relative price changes in brokerage services can be seen from the following comparison. As shown in Exhibits 1a and 1b, the average home price in the GTA increased by approximately 23 percent from 2008 to 2011.[103] Commission rates, however, have stayed largely constant during this time. As a result, as shown in Exhibit 5, the estimated average overall commission that home sellers paid for homes in the GTA increased steadily from 2008 to 2011, with a total increase over that period of approximately 22 percent ($18,454 to $22,479). Yet, despite this significant increase in a seller's estimated cost of using an agent versus going FSBO, I am not aware of any evidence of a corresponding significant increase in consumers' willingness to go FSBO.

100. There are several reasons why small but significant price changes induce so little substitution between agents and going FSBO. First, going FSBO means that a seller's listing will not appear in the MLS. This significantly reduces a home's exposure and is generally believed to make it much more difficult to sell the home.[104] In fact, the evidence suggests that a significant number of FSBO sales take place between parties that already know each other, and as a result there is no need to access the MLS. For example, NAR's 2011 Profile of Home Buyers and Sellers points out that 40 percent of FSBO sales in the U.S. involve cases where the seller knows the buyer. [105] Similarly, a recent academic paper provides evidence that FSBO sellers also tend to be more patient than sellers that rely on the MLS: "FSBO attracts a particular type of seller. The higher prices these sellers are able to command suggest that these sellers are better bargainers, and the longer time to sell on FSBO suggests that [FSBO] sellers are also more patient."[106]

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[102] The change in savings would be even less if the FSBO seller anticipated that, even if they could avoid a sell-side commission, they would still have to pay a buy-side commission in order to attract buy-side brokers. If the sell-side commission was 2.5 percent, a 5 percent increase would raise that commission to 2.625 percent. On a $400,000 home, this would change the overall commission by just $500.

[103] I checked to see whether this increase in home prices might be attributable in significant part to a mix-issue whereby prices were increasing because the homes being sold were larger or had more attractive features. I found that mix-issues played little role in the finding that prices were increasing over time. In fact, even controlling for the number of bedrooms and bathrooms, the presence of a family room or pool, age of the house, the house "type" (e.g., detached, condo), the house "style" (e.g., two-story, loft), the exterior (e.g., brick, concrete), and community, prices increased approximately 5.5 percent per year from 2008 to 2011.

[104] As stated in an article on NAR's website relating to FSBOs, "Sure, a determined FSBO can put a for-sale sign in his or her front yard and run a tiny advertisement in the local newspaper, but the home won't receive nearly as much exposure as it would through the MLS." That article also warns consumers that "Agents won't show FSBO homes." [http://www.realtor.com/home-finance/sellers-basics/fsbo-woes.aspx?source=web.]

[105] "Profile of Home Buyers and Sellers," National Association of Realtors, 2011, at page 104.

[106] "The Relative Performance of Real Estate Marketing Platforms: MLS versus FSBOMadison.com," Igal Hendel, Aviv Nevo, and François Ortalo-Magné, *American Economic Review*, December 2009, at pages 1878-1880, 1895 and 1897.

101. Going FSBO also means that the buyer must assume many of the burdens and responsibilities that an agent would otherwise assume. These burdens include marketing the home, meeting with prospective buyers and their agent, and arranging for open houses. Each of these burdens comes at a cost to a home seller and will offset any savings the seller realizes from a small but significant change in the relative price of using an agent versus going FSBO.

(2) Discount brokers without MLS access cannot compete

102. I understand that limited service discount brokers in the GTA formerly were prohibited from putting their listings in the MLS. Absent this access to the MLS, I understand that those discount brokers were unable to effectively compete with other brokers that offered MLS access.[107]

103. The conclusion that discount brokers need access to the MLS in order to effectively compete is not unique to competition in the GTA. In the United States, there have been several cases in which the government has alleged that, absent access to the MLS, discount brokers are largely unable to compete with brokers that offer MLS access.[108]

(3) Buyers also want access to MLS information

104. Although consumers have the option to purchase a home without using an agent ("going solo"), relatively few do so. In part, consumers' unwillingness to purchase a home without an agent reflects a perception that buyers pay nothing to use a broker.[109] Yet, even if consumers did recognize a price to using a buy-side broker, a small change in relative prices would not likely result in significant substitution between using an agent and not using one.[110]

105. As a means of estimating the frequency with which buyers purchase a home without relying on a buy-side agent, I identified all GTA listings from 2008 to 2011 in which the buy-side broker and the sell-side broker were the same. Since sell-side agents will typically list themselves as the buyer's agent when the buyer has no agent of their own, this provides an approximate upper bound to the frequency with which buyers purchase a home without using an

[107] In February 2010, the Canadian Competition Bureau challenged rules adopted by CREA that discriminated against real estate agents who were hired by consumers to offer a "mere posting" service. CREA's rules had prevented these agents from listing properties on the MLS. [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03196.html.] In October 2010, CREA's members ratified a consent agreement with the Competition Bureau that allows agents to offer "mere posting" services on the MLS. [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03305.html.]

[108] See generally, for example, "Working Party No. 2."

[109] There is, however, a potentially hidden cost of using a buy-side broker: if a buyer chose not to use an agent, the seller might save on half the commission payment, and the buyer might be able to negotiate for some of those savings. These costs are sometimes more explicit when a consumer enters into a contract that guarantees the buy-side broker a minimum commission.

[110] Even if a consumer was willing to consider looking at new construction, where buyers often work without an agent and which are not included in TREB's MLS, I am aware of no evidence suggesting that enough consumers would switch from considering the purchase of an existing property (marketed through the MLS) to only consider new construction in the event of a small increase in brokerage prices.

agent.[111] Using this approach, I found relatively few cases in which the buyer went solo. As shown in Exhibit 6, the sell-side agent was the same as the buy-side agent in only about 10 percent of transactions. Equally important, I found that despite the increase in the estimated total commission payments to agents from 2008 to 2011 (see Exhibit 5), buyers did not appear to be substituting to going solo, even though the potential savings from doing so was arguably greater. In fact, if anything, Exhibit 6 suggests that despite the increase in commissions over time to buy-side agents, buyers became less likely over time to go solo.[112]

106. There are several reasons why buyers are unwilling to go solo in response to a small change in the relative price of using an agent. First, buy-side agents can provide significant value to home buyers by allowing buyers to search (either directly through a VOW or indirectly through their agent) all the homes in the MLS. Absent that relationship, the buyer cannot conduct a complete search of available homes or the attributes of those homes.

107. Even though buyers going solo may be able to search for listings without access to the MLS, those alternatives are likely to be poor substitutes. For example, while driving by a house with a for-sale sign may reveal that the home is for sale, it says nothing about the home's price, the number of bedrooms, and there is no way to see pictures of the inside. Similarly, even looking on a site like Realtor.ca or an agent's IDX website provides only incomplete information: only limited information about the home is shown, and there is no information about historical sales from which the buyer can assess the value of a particular home relative to other homes on the market. And perhaps most important, as discussed in more detail below, IDX sites in the GTA exclude many of the homes on the market, thus making them a poor alternative to consumers that want to see all the available homes that meet their search criteria.

e) Other real estate services lacking MLS accessibility are not in the relevant product market

108. Real estate services by professionals such as appraisers, home inspectors, mortgage specialists or real estate attorneys are complements, not substitutes, for the services offered by agents and brokers. Thus, a small change in the relative price of real estate agents and brokers will not induce substitution whereby a buyer opts for a second home inspection instead of working with an agent, or whereby a seller decides to switch from an agent to working with a termite inspector.

109. It is also not the case that other real estate professionals can offer buy-side or sell-side services that consumers would view as an alternative to the services offered by an agent or broker. Unless those professionals become licensed real estate agents or brokers (and thus begin

[111] Inasmuch as there are cases in which a single agent brings together a buyer and seller that s/he was individually representing, this estimate overstates (and thus serves as an estimate of the upper bound to) the frequency of buyers without their own agent.

[112] As long as buyers can share the commission savings a seller realizes if they have no agent of their own, then increasing commission payments corresponds to an increase in the potential shared savings for a buyer.

offering the same buy-side or sell-side services that constitute the relevant product market), those professionals will not have access to TREB's MLS system. And without access to the MLS, those real estate professionals cannot provide the services that most consumers demand.

2. Geographic markets are local

110. In my opinion, the geographic markets in which TREB's conduct affects competition are local. The geographic markets for buy-side and sell-side real estate services are no larger than the GTA, and likely closer in size to the five distinct Areas making up the GTA (Halton, Peel, Toronto, York and Durham).

111. The local nature of the geographic market in which agents compete stems in significant part from agents' need to be knowledgeable about local market characteristics: buyers and sellers want guidance about how quickly homes are selling and whether they are selling at above or below list price. Buyers may also be looking for agents that are knowledgeable about local schools or other neighbourhood characteristics.[113] And buy-side agents will generally prefer to limit the geographic scope of their operations as a means of reducing their cumulative travel time associated with driving back and forth between homes to show those homes to prospective buyers. Thus, buy-side and sell-side agents acquire geographic-specific expertise that limits the area over which they compete and limits consumers' willingness to substitute between agents operating in different areas.

112. The local nature of the geographic market is confirmed by my analysis of the geographic distribution of agents' business. I looked at buy-side and sell-side agents' transactions from 2010 to 2012, and asked what share of transactions occurred within a given distance of the agent's principal base of operations.[114] I found that buy-side and sell-side agents typically operate within narrow geographic areas. As shown in Exhibit 7a, 69 percent of buy-side agents' transactions, and about 76 percent of sell-side agents' transactions, occurred within 10 kilometers of agents' principal base of operations.[115]

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[113] See, for example the Examination for Discovery of Donald Richardson, April 3, 2012, at page 470 ("I would imagine that over the years TREB has probably published some statements that would indicate that realtors may be neighbourhood experts and that part of the value of a realtor's services relies in knowledge about the local neighbourhood.").

[114] I defined an agent's principal base of operation as the postal code around which the agent had the most transactions within a particular distance. As an alternative, I replicated the analysis where the principal base of operations was defined as the postal code Forward Sortation Area (FSA) in which the agent had the most transactions, and in which any "ties" were broken by seeing which postal code had the most listings clustered around that code. Results were quite similar across these two analyses.

[115] These results correspond to an analysis in which I looked only at agents with at least 10 transactions during the January 2010 to February 2012 time period. Very similar results emerge when looking at all agents (excluding only those with a single transaction in which the 100 percent of transactions would then, by definition, occur in the same postal code as the principal base of operations).

113. This finding of local geographic markets holds regardless of agents' specific location within the GTA. Exhibits 7b and 7c show that, in most regions within the GTA, agents located in a particular area conduct more than 60 percent of their business within a 10 km region around their principal base of operations, and more than 80 percent of their business within a 20 km region.[116]

114. Exhibits 7a-c also show that the localized nature of agent competition does not depend on differences in expected commissions across regions: even though average commissions (buy-side or expected sell-side) can differ considerably between nearby regions, there is no indication that agents in low-commission regions expand their area of operation to encompass the higher commission region.[117] For example, although there are several communities in Toronto in which the 2011 average buy-side commission was substantially higher (over $20,000) than the average buy-side commission in the surrounding Areas of Peel ($10,037), York ($12,809) and Durham ($7,971), there is no indication that agents operating in Peel, York or Durham have responded to those higher commissions by expanding their operations into those higher commission regions: Exhibit 7c shows that the geographic range in which agents conduct their business is not noticeably larger in those low-commission Areas than in Toronto's higher-commission Areas, suggesting that a small but significant difference in expected commissions does not induce "entry" by agents.

115. The local nature of the geographic market means that, although there are more than 34,000 competing agents and brokers in the GTA, not all of these agents are likely competing with each other. Rather, with local markets, the number of competing agents and brokers within the market may be limited.

B. TREB represents the interests of its member agents and brokers

116. Trade organizations often impose rules on the conduct of their members. This is often referred to as "self-regulation." While self-regulation can sometimes increase competition and benefit consumers, it is also well-recognized that self-regulation can pose a serious threat to competition if carried out by an entity seeking to protect its own members' interests at the expense of consumers' interests. The evidence here shows that TREB has both the *intent* to protect its own members' interests, and as discussed in the next section, the *ability* stemming from its control of the MLS to provide that protection.

[116] Specifically, more than 60 percent (50 percent) of all transactions occurred within 10 km in 77.2 percent (96.2 percent) of FSAs in the GTA, and more than 80 percent of all transactions occurred within 20 km in 92.9 percent of FSAs.

[117] The considerable differences in commissions are driven by large differences in the average price of homes, not differences in commission rates.

1. Self-regulation can be a threat to competition

117. Competition benefits consumers. Competition, however, is not always so kind to competing firms. While some firms (particularly innovative firms) may benefit from competition, others lose out.[118]

118. Trade organizations can be tempted to protect their collective members' interests by using self-regulation to stifle industry competition and limit the opportunity for some firms to innovate and capture market share at the expense of others. Self-regulation can take many forms, including restrictions on the manner in which firms can compete (e.g., whether advertising is acceptable), the conditions under which new firms can enter the market (e.g., educational or training requirements), the types of new goods or services or the conditions under which they can be offered (e.g., minimum service levels or restrictions on store hours), or how firms can price their services (e.g. restrictions on discounts or rebates).[119]

119. Reducing competition through self-regulation can benefit competitors at the direct expense of consumers. As stated in the Competition Bureau's 2007 report regarding competition in the self-regulated professions, "[self-regulated] organizations have potentially conflicting concerns and interests – their own and those of the public."[120] The Bureau further stated that:

> "…regulation that protects professionals from the forces of competition may in fact precipitate, rather than correct, market failure by creating, enhancing or preserving the market power of incumbents, which may lead to a lower supply or quality of services at higher prices than in a competitive market."[121]

120. The danger that self-regulation will be used to protect incumbents by disadvantaging competitors or excluding new competitors has been also recognized by many others. As stated by the former Chairman of the USFTC:

> "... self-regulation can provide a dangerous opportunity for rivals, often out of public sight, to damage rivals that they fear they cannot defeat in the marketplace .... Competitors may use the self-regulatory process to disadvantage new rivals or new forms of competition."

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[118] "'The economic philosophy behind the antitrust laws is a tough philosophy. Those laws recognize that competition means someone may go bankrupt. They do not contemplate a game in which everyone who plays can win.'" [Thurman Arnold (as quoted by Deputy Assistant Attorney General William Kolasky), "Comparative Merger Control Analysis: Six Guiding Principles for Antitrust Agencies – New and Old," March 18, 2002.]

[119] Examples of industries in which concerns about anticompetitive self-regulation have arisen include the Canadian Real Estate industry ["Self-regulated professions [-] Balancing competition and regulation," Competition Bureau, Canada, 2007 and "Self Regulation and Antitrust," Prepared Remarks of Robert Pitofsky, Chairman of the Federal Trade Commission, D.C. Bar Association Symposium, February 18, 1998, Washington, D.C. (http://www.ftc.gov/speeches/pitofsky/self4.shtm).]

[120] "Self-Regulated Professions [-] Balancing Competition and Regulation," Competition Bureau, 2007, at page vii.

[121] "Self-Regulated Professions [-] Balancing Competition and Regulation," Competition Bureau, 2007, at pages 20-21.

> "... the self-regulation process may enable producers to exclude from the market the products of entrants that threaten to take market share from the incumbents. In response to the competitive threat of product innovation, incumbent producers may respond by engaging in self-regulation such as promulgating standards that exclude the innovators' products from the market, rather than by improving their own products. Attempts to impede competition on the merits, and without strong justification, is a kind of "self-regulation" that cannot be tolerated." [122,123]

2. TREB seeks to protect its members' self-interests

121. TREB represents on a collective basis the agents and brokers that compete to provide real estate services in the GTA. The evidence is clear that, in this role, TREB seeks to preserve and protect the well-being of its collective membership – the competing agents and brokers in the GTA.[124] For example, TREB's 2010/2011 Strategic Plan states:[125]

- TREB's Mission Statement is "[t]o be the primary professional resource providing, *protecting and promoting* the continuing real estate success of all its members." (*emphasis added*)

- TREB's "Core Purpose" is "Advancing the continuing success of our Membership."

- TREB identified the importance of "being increasingly proactive in our efforts to 'protect' our Members" and that "Our commitment to Members – To 'Protect'."

122. TREB's apparent aversion to price competition among its members is reflected by its statement that:

> "[u]nrestrained VOWs may create excessive incentives for price competition among buyers' brokers ...."[126]

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[122] "Self Regulation and Antitrust," Prepared Remarks of Robert Pitofsky, Chairman of the Federal Trade Commission, D.C. Bar Association Symposium, February 18, 1998. [http://www.ftc.gov/speeches/pitofsky/self4.shtm.]

[123] See also the U.S. Supreme Court which held that "There is no doubt that the members of [private standard-setting] associations often have economic incentives to restrain competition and that the product standards set by such associations have a serious potential for anticompetitive harm. Agreement on a product standard is, after all, implicitly an agreement not to manufacture, distribute, or purchase certain types of products. Accordingly, private standard-setting associations have traditionally been objects of antitrust scrutiny" [*Allied Tube & Conduit Corp. v. Indian Head, Inc*., 486 U.S. 492, 500-01 (1988).]

[124] Significantly, TREB only seeks to protect the interests of existing agents and brokers in the GTA: its mission does *not* include protecting the interests of brokers that may be looking to enter and begin competing against GTA incumbents.

[125] TREB 2010/2011 Strategic Plan. [TREB00034418 at '421-'422.]

[126] TREB suggests that this movement towards price competition may divert brokers' current focus on non-price competition [Response of the Toronto Real Estate Board to the Amended Notice of Application, August 19, 2011, Concise Statement of Economic Theory, at ¶ 24.] Consumers in the GTA real estate market, however, are likely to prefer price competition (e.g., rebates and discounts) over non-price competition (e.g., magnets, calendars and advertising flyers).

123. Finally, TREB's responsibility to its collective membership, rather than the consumers in the GTA whom those members compete to serve, is also clearly stated in an email to TREB from one of its members:

> "I'm sure that I have no need to remind you that the Board of TREB is responsible to its membership, not the public."[127]

124. TREB has several means by which it can protect its members' self-interests. First, TREB can restrict entry and expansion by restricting the means by which brokers can innovate and capture market share from incumbent brokers. More specifically, by first prohibiting VOWs and then disadvantaging VOWs, TREB can make it less attractive for new firms (e.g., ViewPoint or Redfin) to begin competing in the GTA.

125. TREB can also protect its members' self-interest by reducing price competition among brokers. This can be achieved by preventing VOWs from showing information relating to buy-side commissions, and by preventing VOWs from eliminating certain market distortions that keep commissions higher than would otherwise be the case.

3. TREB has incentives to resist innovation

126. Although firms that succeed in offering new, innovative products can earn significant profits, incumbents that fail to adapt and embrace new technology can lose market share and suffer. For example, while Kodak was once successful due to its innovations in film photography, it was forced to recently file for bankruptcy protection, in large part because it did not keep pace with the industry shift from film to digital cameras.[128] Similarly, prominent music retailers such as Music World and Sam the Record Man recently went into bankruptcy, at least in part because of consumers increasingly purchasing music from online music retailers.[129] For this reason, incumbents often view new technology and innovations as a threat.[130, 131]

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[127] Email from broker [redacted] (Broker at [redacted] in Richmond Hill, Ontario) to TREB, June 9, 2011. [TREB00003932.]

[128] "Eastman Kodak 1Q loss Widens," *Wall Street Journal*, April 27, 2012.

[129] "Music World to Close Stores," *The Globe and Mail*, November 12, 2007; and "The Saga of Sam's: Records to Real Estate," *The Globe and Mail*, July 7, 2007. Similarly, in 2011 the largest music retailer in Canada, HMV, fell on hard times due to digital downloads and exited the Canadian retail market by selling its stores to a British turnaround firm. ["HMV Canada Sold to British Turnaround Firm," *National's Post Financial Post & FP Investing*, June 28, 2011.]

[130] See, for example, Rubinfeld and Hoven, who state, "There is also a substantial body of evidence that leading incumbents prefer a different path of innovation than challengers." They further cite to Dorfman who wrote, "Because it may disrupt the nature of competition in a given industry, a new technology which modifies the key factors for success tends to be perceived as a strategic opportunity by marginal competitors, and as a threat by the leading competitors, even if they are the ones which developed the new technology." [Daniel Rubinfeld and John Hoven, "Innovation and Antitrust Enforcement," published in Jerry Ellig (ed.), Dynamic Competition and Public Policy: Technology, Innovation, and Antitrust Issues, New York: Cambridge University Press, 2001.] A 2002 survey of Canadian travel agents identified that "two in three travel agencies (64%) saw internet reservations as

127. Faced with the prospect of having to compete in different ways, and against firms offering new products, market incumbents have frequently tried to resist the changes caused by innovation. For example, retailers have sometimes attempted to use local zoning restrictions to prevent new competition from "big box" retailers such as Wal-Mart.[132] There are also examples in the real estate industry where incumbents have sought to prevent new forms of competition, with agents sometimes accused of trying to prevent other agents from using new business models as a means of competing.[133]

128. The real estate industry is no different in this respect than other industries: incumbents have incentives to restrict competition in ways that benefit themselves at the expense of other competitors or consumers. In fact, an industry-wide "resistance to change" was one of the issues flagged by CREA when assessing likely future developments in the real estate industry, with CREA noting that there is "widespread uncertainty, confusion, resistance to change, and fear of change and the unknown."[134] This incentive was recognized in an economic report to CREA:

> "there are some economic incentives for brokers, even though they compete vigorously with one another, to exclude competition."[135]

129. In this matter, the direct resistance to change comes from TREB rather than TREB's individual members. With its control of the MLS, and thus a means by which it can prevent or

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detrimental to their business." ["Canadian Travel Arrangement Services Survey, Year 2003 Report," Canadian Tourisms Commission, 2005.]

[131] There are, of course, many other examples in which market incumbents have embraced new technology and remained successful. For example, rather than simply concede sales to internet-based booksellers, traditional booksellers such as Indigo now offer consumers the opportunity to purchase books over the internet.

[132] For example, I understand that this type of issue has arisen with respect to Wal-Mart's attempt to open a store in Guelph, ON.

[133] For example, in February 2010 the Canadian Commissioner of Competition challenged rules imposed by CREA on real estate agents who list residential properties on the MLS. The Commissioner alleged that "CREA's rules restrict the ability of consumers to choose the real estate services they want, forcing them to pay for services they do not need [and that] [t]he rules also prevent real estate agents from offering more innovative service and pricing options to consumers." ["Competition Bureau Seeks to Prohibit Anti-competitive Real Estate Rules," Canadian Competition Bureau Press Release, February 8, 2010 (http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03196.html).] In October of 2010, CREA signed a consent agreement with Competition Bureau regarding these rules. According to the Commissioner, the consent agreement "ensures that they [consumers] will have the freedom to choose which services they want from a real estate agent and to pay for only those services. For real estate agents, it ensures that they will be able to offer the variety of services and prices that meet the needs of consumers." ["Final Agreement Paves Way for More Competition in Canada's Real Estate Market," Canadian Competition Bureau Press Release, October 24, 2010 (http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03305.html).] Among other things, this consent agreement allowed agents to offer consumers a flat fee service to post for sale listings on the MLS. ["Real Estate Industry, Competition Bureau lock Horns Again," *The Globe and Mail*, May 27, 2011 (http://www.theglobeandmail.com/report-on-business/real-estate-industry-competition-bureau-lock-horns-again/article2037341).] In the U.S., see the government's litigation against the National Association of Realtors. [http://www.justice.gov/atr/cases/nar.htm.]

[134] "Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 10.

[135] Ralph Winter, "Competition Law Issues in the Tying of the MLS and mls.ca: An Economic Analysis, January 20, 2004, at ¶ 70. [CREA00029955/TREB00053402.]

handicap entry by firms offering the new VOW technology, TREB is in a better position than its individual members to prevent innovation and the resulting increase in dynamic competition.

C. VOWs are a competitive threat to TREB's members

130. To certain incumbent brokers in the GTA, VOWs represent a competitive threat.

1. GTA consumers make substantial commissions payments

131. The residential real estate industry in the GTA accounts for a substantial volume of commerce. As shown in Exhibits 3a-c, consumers in the GTA paid $1.1 billion in buy-side commissions and an estimated $2.2 billion in total commissions to agents and brokers in 2011.

132. Exhibits 3a-c show that there exists a very stable relationship among the largest corporate brokers, in that year after year, the majority (approximately 70 percent) of commission payments go to brokers that belong to just five corporate brokerages, with little change over time in the share or the rankings of those corporate brokerages.[136] The maps in Exhibits 4a and 4b show that this pattern of the five largest corporate brokerages accounting for the majority of commission payments also holds when looking at smaller geographic regions within the GTA.[137]

2. VOWs threaten to facilitate entry and increase competition

133. VOWs represent an economic threat to the established way in which brokers in the GTA have done business, and thus represent a threat to those brokers' future revenue streams. Rather than obtain information directly from their agent, VOWs allow consumers to use brokers' websites to access and analyze those data themselves. This significantly changes the nature of services that agents provide to consumers: rather than serving as the principal conduit through which consumers access real estate information, agents will shift towards offering specialized expertise with respect to the other aspects of buying or selling a home (e.g., providing specialized information about neighbourhoods, helping to evaluate a home during a walk-through, helping to negotiate the different terms of a contract, and navigating the process from home sale to closing).

134. Change in the type of services that agents offer, and how they provide those services, creates a market disruption that poses a threat to market incumbents. In some cases, this disruption may stem from existing brokers who see VOWs as an opportunity by which they can

[136] These five corporate brokerages are (in decreasing order of size): Brokerage E; Brokerage D; Brokerage B; Brokerage C; and Brokerage A. These corporate brokerages include numerous individual brokerages.

[137] See Exhibit 4c for more detailed information about distribution of commission payments by individual communities within the GTA.

become more effective competitors and increase their own market share.[138] These brokers may be large or small and they may even collectively account for a substantial portion of TREB's overall member base.

135. VOWs may also result in market disruption by allowing *de novo* entry by large VOW-based brokerages in the United States (e.g., ZipRealty or Redfin) or by new Canadian firms (e.g., TheRedPin) seeking to emulate the success that ZipRealty and Redfin have had in the United States. Entry might also take the form of firms that have not traditionally competed in the real estate industry but which are lured in by the substantial commissions paid in the GTA.

136. The evidence confirms that incumbents have been concerned that the Internet and VOWs might encourage entry by new competitors. As early as 2003, one report noted how the lure of substantial existing commission payments might induce such entry by a variety of different firms:

> "Total estimates of commissions were calculated and dollar signs danced like sugar plums in the dreams of techies."[139]

3. Entry poses a significant financial threat to incumbent brokerages

137. Even if VOWs only create the opportunity for very modest inroads by entrants and innovators, the financial impact on incumbents can be substantial. For example, if new VOW-based brokers captured just one percent of commissions from the five largest corporate brokers in the GTA,[140] this would represent a buy-side commission loss to those five brokerages of approximately $7.6 million per year and a total loss (including sell-side commissions) of an estimated $15.8 million per year.[141]

138. VOWs represent an even greater threat to incumbents if VOWs succeed in ultimately transforming the real estate industry in the same way that the Internet has transformed other industries. A significant aspect of real estate agents service to consumers has been "facilitating a transaction." The same was true with travel agents, stock brokers and insurance agents before the

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[138] As CREA recognizes, "[Organized Real Estate] is at a cross-roads. Some members and leaders are standing still, some are in panic mode, some are trying to evolve, and some are running with change." ["Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 10.]

[139] "Electronic Data Usage Task Force Report," CREA, October 2003. [GPJR00020279/CREA00038626 at GPJR00020283.]

[140] A loss of just one percent of commissions may be extremely conservative given the relative success of VOWs in many other areas. Redfin, for example, has claimed that its agents are top-ten producers in almost every market they serve [www.reuters.com/article/2009/07/10/idUS18725+10-Jul-2009+PRN20090710.] while ZipRealty has been identified at various times as one of the Top 5 or Top 10 residential real estate brokerages [Think Equity 7th Annual Growth Conference Presentation, September 16, 2010, and Citigroup EMT Conference Presentation, January 5, 2012 (http://phx.corporate-ir.net/phoenix.zhtml?c=180169&p=irol-irhome).] In fact, ZipRealty alone appears to have captured a market share of one to two percent in certain markets in which it competes.

[141] Based on Exhibits 3a-c showing that the five largest corporate brokerages accounted for 69.4 percent of buy-side commissions, and 71.8 percent of total commissions, in the GTA in 2011.

Internet transformed those industries by providing consumers with direct access to information and a means of reducing the importance of an intermediary through which consumers had to act. As a consequence of that transformation, established incumbents in those industries lost substantial market share and revenue. Not surprisingly, the real estate industry has recognized a possible parallel between their own industry and what happened in those other industries. As CREA noted in a recent report, "There is widespread apprehension that consumers will leave [organized real estate] behind and find alternative sources, as they have in the travel business."[142]

139. Thus, established brokers in the GTA may view VOWs as much more than a threat to just one or two percent of their business: they may see VOWs as a potential threat to their entire way of doing business.

4. Brokers resist information dissemination in order to retain their "central" role

140. The real estate industry clearly recognizes the threat that increased information dissemination poses to their existing way of doing business. Many industry participants, both in the GTA and outside the GTA, have expressed the view that, in order to protect and preserve their own in the future, consumers should not be provided access to important real estate information.

- A 2005 CREA report stated, "What makes organized real estate in Canada the envy of many other countries is that it had the vision to create the MLS system and *provide restricted consumer access via the mls.ca website and so avoid disintermediation that would inevitably have occurred otherwise.*"[143]

- A 2003 CREA report on Electronic Data Usage concluded that, "The objective always is to ensure the realtor remains central to the real estate transaction and that efforts to guide the use of MLS data are to that end."[144]

- TREB's 2010/2011 Strategic Plan recommended, "Making sure that we remain relevant to Members and providing information and services that are not available elsewhere."[145]

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[142] "Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 14. See also the 2003 CREA EDU Task Force report which, in discussing the potential impact of increased information in real estate, noted that "[t]he threat of disintermediation has certainly affected other industries. Travel agents and stock brokers have been heaviest hit. Bankers are scrambling to change with new technologies." [Electronic Data Usage Task Force Report," CREA, October 2003 (GPJR00020279/CREA00038626 at GPJR00020283).]

[143] Final Report to CREA, Report to the CREA – Branding Assessment – MLS and MLS.CA, 2005. [CREA00005828 at '832, *emphasis added*.]

[144] "Electronic Data Usage Task Force Report," CREA, October 2003. [GPJR00020279/CREA00038626 at GPJR00020281.]

[145] MBEF0018_00001941/TREB00057729 at MBEF0018_00002033.

- One GTA broker emailed TREB that "we have [done] ourselves a major disservice in allowing the public to have access to listing information of any kind via the Internet, rather than being the gatekeepers of that information" and that "Only by going back to a situation in which the public must get information about a listing or listings from a licensed member of a Board can we ensure that our interests are protected."[146]

- One agent in a TREB Focus Group indicated that realtor.ca "should not give away too much information as people should refer [to] or depend on realtors for updated information."[147]

- A broker (from outside the GTA) argued that "keeping the REALTOR central and essential to the real estate transaction is exactly what it's all about" and how the real estate industry was about "'keeping secrets' from the public."[148]

- That same broker argued that "Data is King and Controlling the Dissemination of Data is the Continued Responsibility of the Monarchy."[149]

D. TREB has substantial market power, and thus the ability to protect its members

141. Agents and brokers need access to TREB's MLS to compete in the relevant market. This need for MLS access provides TREB with control over the market, including control over which firms can, and cannot, compete in the relevant market. TREB's control over MLS access also enables TREB to impose rules that disadvantage VOW-based brokers.

1. Excluding or disadvantaging competitors reflects market power

142. The ability to exclude or disadvantage competitors is evidence of market power. As noted by Carlton and Salop:

> "If, by excluding a group of competitors, the joint venture can cause the output of these excluded firms to decline, and if the output of its own members does not expand to fully offset this decline, then total market output will fall and the joint venture will have exercised market power."[150]

143. A joint venture of competitors such as TREB's MLS can have substantial market power, and the ability to control competition within the market, even if no individual members of the

[146] TREB00047221 at '222.

[147] TREB00004478 at '484.

[148] TREB00008337.

[149] TREB00008337.

[150] Carlton, D. and Salop, S., "You Keep on Knocking But You Can't Come In: Evaluating Restrictions on Access to Input Joint Ventures," *Harvard Journal of Law & Technology*, Summer, 1996, at page 332 and note 22. Hereafter, "Carlton & Salop". In the context of this discussion, TREB's MLS should be considered a joint venture among otherwise competing agents and brokers.

joint venture (i.e., the agents and brokers that make up TREB's membership) have substantial market power of their own. As noted by Carlton and Salop:

> "a joint venture can exercise market power even if the individual market shares of each of its members are low. This market power arises from the exclusionary conduct of the joint venture."[151]

2. TREB's market power stems from its control of the MLS

144. TREB controls access to the MLS, a database for which agents and brokers have no good substitute. By denying agents access to the MLS, TREB can effectively exclude firms from the relevant market. Similarly, by controlling the conditions under which agents and brokers can use the MLS, TREB controls *how* agents and brokers compete.

a) Agents and brokers need access to TREB's MLS

145. In order to effectively compete in the relevant market, agents and brokers need access to TREB's MLS. TREB's MLS is unique with respect to real estate listings, in that it includes almost all residential homes available for sale in the GTA.[152] An MLS provides significant benefits to consumers and agents by providing them with a single source from which they can acquire comprehensive information.[153] As such, agents and brokers need access to their local MLS in order to effectively compete.

146. There is substantial evidence that agents and brokers need access to their local MLS. As stated by TREB:

> "*One of the most important tools used by virtually every REALTOR is the Multiple Listing Service*. The MLS is distinct from the Canadian Real Estate Association's consumer website REALTOR.ca in that it contains a wealth of information that is accessible only to REALTORS on sales, average prices and more, by housing type and neighborhood. Using the MLS your REALTOR can develop a Competitive Market Analysis, contrasting your existing or prospective home to those recently sold in the area. *This information is vital* to helping you determine a suitable offer or listing price."[154]

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[151] Carlton & Salop, at page 333 and note 22. Carlton and Salop further note that, "Even if the joint venture has no power to raise prices (as reflected perhaps by a low collective market share), it may be incorrect to conclude that the joint venture lacks the ability to exercise market power by excluding rivals, and thereby prevent prices from falling." [Carlton & Salop, at note 22 on page 330.]

[152] The principal exception to this is new construction and what I understand is a relatively small volume of FSBO properties.

[153] An August 2011 email from a GTA agent to TREB describes the importance of the comprehensive listings in the MLS: "ANALOGY [–] I find the best parallel to be 'software companies' eg Microsoft, TREB has compiled a database of (now electronic) information, each 'record' of information on a sale or listing is only part of the whole, and the *'whole' is what's valuable* – searching the whole allows the compare/contrast analysis which permits the trained user to determine relative value and therefore price…" See TREB00004199 at '202, *emphasis added*.

[154] Undated draft TREB posting for its website (TREB00059153 at '153), *emphasis added*. See also Examination for Discovery of Donald Richardson, April 3, 2012, at pages 488-489.

147. Another TREB document further emphasizes this point:

> "The MLS was created by REALTORS and is invaluable to REALTORS and their clients, giving access to such information as sold and list prices, average time on the market, historical data and comparative market analysis."[155]

148. The critical role that an MLS plays in allowing agents and brokers is also acknowledged by CREA:

> "Your REALTOR has access to a local Board's MLS System [-] A Board's MLS system is the single most powerful tool for buying and selling a home."[156]

> "… REALTORS have come to rely on the ability of MLS to market properties. The fact that REALTORS and consumers can find nearly all listed properties, and the very best and timely sales information, in one place is of enormous importance to the continuing success of MLS…"[157]

> "MLS® is a co-operative marketing system used only by Canada's real estate Boards to ensure maximum exposure of properties listed for sale."[158]

149. Similarly, as stated in the 2007 *USDOJ/USFTC Real Estate Report*:

> "MLSs are so important to the operation of real estate markets that, *as a practical matter, any broker who wishes to compete effectively in a market must participate in the local MLS.*"[159]

150. The courts have also recognized that agents and brokers depend on access to the MLS. In one recent matter, the Court of Appeal for Ontario concluded that, without access to TREB's MLS database, a broker "was not able to carry on business as a real estate broker."[160]

151. Finally, witness statements in this matter highlight how, brokers generally depend on MLS access in order to compete:

> "Access to the MLS database is essential to the purchase and sale of residential real estate ...."[161]

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[155] TREB Q&A regarding realtors, undated. [TREB00042202 at '205, *emphasis added*.]

[156] See CREA sponsored website. [www.howrealtorshelp.ca/faq.php#agent-vs-realtor, *emphasis added*.]

[157] "Electronic Data Usage Task Force Report," CREA, October 2003. [GPJR00020279/CREA00038626 at GPJR00020281.] Hereafter, referred to as the "2003 CREA EDU Task Force report". John Di Michele (current Chief Information Officer of TREB) and Richard Silver (current President of TREB) were both members of the 2003 CREA EDU Task Force.

[158] http://www.crea.ca/content/canadian-home-sales-edge-higher-february.

[159] 2007 USDOJ/USFTC Real Estate Report, at page 12, *emphasis added.*

[160] *Fraser Beach v. Toronto Real Estate Board*, 2010, CanLII (ONCA 883) at ¶ 3 (MBED0037_000000166). Hereafter, "*Court of Appeal*." See also *Fraser Beach Opinion* at ¶ 53 (GRMR0012_00000285) regarding the same litigation.

[161] McMullin (ViewPoint) Statement at ¶ 20. This statement refers the need for access to Halifax's MLS system in order to compete in the Halifax area, but the statement makes clear that brokers similarly require access to TREB's MLS system in order to compete in the GTA. See, for example, McMullin (ViewPoint) Statement at ¶ 10 stating that, absent a full MLS data feed, ViewPoint does not believe it can compete in the GTA.

b) There are no good substitutes to TREB's MLS

152. TREB's MLS provides much more comprehensive listings coverage than any other source of information. This superior coverage of the MLS relative to other possible information sources has been extensively noted, with one industry report, for example, noting that "The Multiple Listings Service is the best real estate information system in the world."[162]

153. The comprehensive coverage of TREB's MLS, and its ability to significantly reduce costs of bringing together buyers and sellers, as well as to lower brokers' transactions costs, means that there are significant efficiencies associated with TREB's MLS. These efficiencies associated with TREB's MLS provide TREB with substantial market power since brokers without access to that MLS would be unable to realize the significant efficiencies that MLSs are recognized to provide.[163]

154. The lack of good substitutes to TREB's MLS is evidenced by the observation that almost all real estate agents and brokers in the GTA rely on TREB's MLS. Further, even to the extent that agents and brokers also use websites such as IDXs or Realtor.ca, it is important to note that the data feed supporting those websites comes from the MLS. Thus, even when using those other websites, agents and brokers continue to rely on TREB's MLS.

c) TREB can exclude competitors by denying MLS access

155. The need for MLS access, and the lack of any good substitute, means that TREB can exclude competitors from the market by denying them access to the MLS.[164] This provides TREB with substantial market power and control over the two relevant markets.

156. The ability to exclude competitors by denying access to the MLS has been recognized in the academic literature. As one prominent economist noted:[165]

> "the ability of the collective members of a MLS to exclude rivals, especially if those rivals are 'mavericks' who are price-cutters with respect to commissions, can be a powerful way of enforcing a high-fee structure and thus of maintaining the collective exercise of market power."
>
> "… if a brokerage firm were to be unable to contribute its sell-side listings to its local MLS and/or be unable to access the local MLS on behalf of its buy-side customers, it would be at a substantial disadvantage vis-à-vis its MLS-member rivals in attracting both sell-side and buy-side customers."

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[162] "Addressing Court and Tribunal Issues 2010 – Initial Strategy Considerations", conducted by Navigator, April 12, 2010. [TREB00012209 at '217.] See also TREB00042202 making that same statement.

[163] See "Working Party No. 2" at ¶ 52.

[164] As stated in TREB's MLS Rules and Policy, "TREB *in its sole discretion*, may terminate or suspend a Member's user name and Password code and/or authorized use of an Authenticator in the event of any unauthorized or improper use of TREB's MLS Online System." [TREB's "Virtual Office Website (VOW) Rules and Policies" (TREB00006904 at '931), *emphasis added.*]

[165] Lawrence J. White, "The Residential Real Estate Brokerage Industry: What Would More Vigorous Competition Look Like?" *Real Estate Law Journal*, Vol. 35, Issue 1, Summer 2006, at page 16.

157. Thus, TREB's control over access to the MLS provides TREB with substantial control over which firms can compete and how they can compete in the relevant markets. This control provides TREB with substantial market power in the relevant buy-side and sell-side markets.

d) There is no likelihood of entry by a competing MLS

158. Entry in the form of a viable new source of real estate information to which consumers and real estate agents and brokers would likely turn to as a substitute to TREB's MLS is extremely unlikely. To constitute a viable substitute, a new MLS would need the vast majority of agents and brokers to submit their listings lest the new MLS end up offering inferior listings coverage. Such widespread participation by agents and brokers is unlikely, and the lack of cooperation by even a single large broker could leave that new MLS with significant holes in terms of coverage.[166]

159. As a means of assessing the likelihood of a new MLS becoming available in the GTA, I assessed whether such entry has occurred elsewhere in Canada or the United States. With very few exceptions, I am unaware of any such (successful) entry. Rather, in the vast majority of areas in Canada and the United States, agents and brokers rely on a single MLS for a particular region.[167] This lack of historical entry speaks to the difficulties of establishing a viable alternative data source.

3. TREB's market power is evidenced by its historical exclusion of competitors

160. TREB's power to exclude firms from the market is evidenced by TREB's decision to deny MLS access to BNV Real Estate. I understand that in 2007, TREB concluded that BNV was inappropriately using MLS data on its website and subsequently terminated BNV's access to TREB's MLS data. When BNV partnered with another brokerage, RealtySellers, to regain the MLS access necessary to operate its VOW, TREB responded by terminating RealtySellers' access as well.[168] By doing so, TREB effectively forced BNV and RealtySellers from the market.[169] Similarly, around the same time, TREB eliminated the MLS data feed that another

[166] The reluctance of so many agents and brokers in the GTA to even submit their listings to IDXs speaks to the likelihood that a competing MLS would likely gain access to sufficient listings to serve as a viable substitute to TREB's MLS.

[167] My understanding is that in those few areas served by two MLSs, the MLSs tend to bifurcate their regions of coverage with relatively little geographic overlap. And even where there is geographic overlap across the MLSs, I understand that one of the MLSs tends to be more dominant.

[168] See *RealtySellers Ontario Limited v. Toronto Real Estate Board*, 2007, CanLII 50283 (ON SC). [http://www.canlii.org/eliisa/highlight.do?text=50283&language=en&searchTitle=Ontario&path=/en/on/onsc/doc/2007/2007canlii50283/2007canlii50283.html.]

[169] http://www.remonline.com/home/?p=7412.

broker, Mark Enchin, relied upon for his own VOW, thus effectively forcing him from the market.[170]

161. TREB's power to exclude competitors is also evidenced by its conduct towards RealtySellers. I understand that in 2007, CREA changed its rules governing the level of services that brokerages were required to provide in order to have access to MLS data.[171] I understand that, because RealtySellers did not provide those newly mandated services, RealtySellers was threatened with the loss of access to TREB's MLS in the GTA, and unable to compete on those terms, exited the market.

162. TREB's ability to exclude competitors from the market is also evidenced by its success in preventing VOW-based brokers from competing in the GTA up until the time that TREB decided to provide MLS access in late-2011.

163. The evidence also confirms that TREB controls the terms under which agents compete. TREB's decision to allow VOW-based brokers to compete in the GTA, but only if they agreed not to provide certain information to consumers, is evidence of TREB's ability to dictate the conditions under which competition can occur. This control is also evidenced by RealtySellers' statement that it has had to conform the manner in which it competes to satisfy TREB's dictates:

> "Access to the content of this web service is now restricted to email subscription only. We have adopted this format to satisfy concerns expressed by co-operating members of the MLS®. We would love to provide our visitors with a facility to search all properties reported sold on the MLS® but current industry conventions do not support such an initiative."[172]

VII. TREB'S CONDUCT REDUCES AND DISTORTS DYNAMIC COMPETITION

164. VOWs represent an important form of dynamic competition that offer the potential to change the manner in which competition among real estate agents and brokers occurs. TREB's conduct, by first preventing VOWs from emerging and then by handicapping VOWs' ability to offer important services to consumers, has substantially reduced, and continues to reduce, dynamic competition.

A. Innovation and dynamic competition provide important consumer benefits

165. Dynamic competition provides important consumer benefits, even in markets where there already exists significant static competition. Innovation and dynamic competition, however, often poses a threat to incumbents in a market.

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[170] See note 82.

[171] See *Commissioner of Competition v. Canadian Real Estate Association*, CT-2010-002, Registered Consent Agreement, October 25, 2010.

[172] http://tosolds.ca/?page_id=6.

1. Innovation is an important form of dynamic competition

166. Competition encompasses both a "static" and a "dynamic" dimension, each of which benefits consumers.[173] Very generally, static competition encompasses how firms compete in the short-run, with price reductions on existing products one of the most common forms of static competition. More generally, however, competition is a dynamic process in which firms focus on longer-term strategies for attracting customers. This includes efforts to improve product quality, to introduce new, innovative products that consumers will prefer over existing products, and to change how products and services are delivered to consumers. Dynamic competition also includes efforts to reduce costs so that firms can afford price reductions to attract new customers.

167. Firms' ability to innovate and offer consumers new products or services frequently flows from new technologies.[174] Such technologies, by opening the door to new products, reduced costs or changes in the way in which firms can compete, are sometimes referred to as "disruptive technologies."[175] Dynamic competition results when entrepreneurs figure out a way in which to use that disruptive technology to offer a better or a lower-priced product to consumers.[176]

168. Dynamic competition and innovation occur in all industries. In some cases, the benefits from such innovation are clear and dramatic (e.g., lifesaving medical devices such as cardiac pacemakers). In other cases, the benefits may be less dramatic, but nevertheless have an important impact on consumers' day-to-day lives (e.g., pay-at-the-pump technology at gas stations or, for those old enough to remember, the "correction" key on electric typewriters).

169. In many other cases, the cumulative effect of dynamic competition over time is dramatic, but that cumulative effect is realized through a series of smaller, but continuous, changes over time (e.g., increases in computer microprocessing speed or reductions in the size of cell phones). In such cases, although preventing further dynamic competition at any point in time might appear to have little short-run effect, preventing that dynamic competition would have left consumers much worse off in the long-run.

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[173] See, for example, Jorde and Teece, who state, "we suggest that if society wishes to promote competition, the best way to do so is to promote innovation." In comparing the benefits of static and dynamic competition, they further state that "it is dynamic competition that really counts." [Thomas Jorde and David Teece, "Innovation, Dynamic Competition and Antitrust Policy," *Regulation*, Fall, 1990.]

[174] As stated by Scherer and Ross, "Technical progress thrives best in an environment that nurtures a diversity of sizes and, perhaps especially, that keeps barriers to entry by technologically innovative newcomers low." [F.M. Scherer and David Ross, Industrial Market Structure and Economic Performance, *Third Edition*, Houghton Mifflin Company, 1990, at page 654.]

[175] See, for example, Clayton Christensen, *The Innovators Dilemma*, Harper Business, 2000; or David Teece and Mary Coleman, "The Meaning of Monopoly: Antitrust Analysis in High-Technology Industries," *Antitrust Bulletin*, Winter, 1998.

[176] This is not to say, however, that all important instances of innovation result from technology changes. In some cases, innovations simply reflect new ideas on how to use existing technology, e.g., the introduction of intermittent windshield wipers on cars, or squeezable ketchup bottles.

2. Dynamic competition can reduce market distortions that reduce competition

170. Markets can suffer from a variety of imperfections or distortions that both reduce competition and reduce the benefits that consumers realize from competition. Classic examples of such market imperfections include asymmetric information, high search costs, switching costs, and asymmetries that give rise to the previously discussed principal-agent relationships.

171. Market distortions reduce competition and the benefits from competition in much the same way that a merger or anticompetitive conduct reduces competition and harms consumers. Innovation and dynamic competition that reduces or eliminates those market imperfections increases competition and benefits consumers. Conversely, conduct that creates or preserves market distortions reduces competition.

3. Dynamic competition can transform industries

172. In many industries, consumers have embraced the opportunity to use the Internet to acquire and use information. This has led to a fundamental transformation of how firms compete in several industries, including travel services, stock brokerages and insurance.

173. There is a clear parallel between VOWs and the industries in the examples above: in each case, Internet-enabled technologies increase consumer information and allow consumers to avoid the need to work through an intermediary. This parallel has not been lost on the real estate industry, as such concerns were expressed by CREA as early as 2003 in an industry report:

> "The public adoption of the Internet has created many new challenges for REALTORs. We don't know who are friends or foes .... Some of the dot coms have expressed their avowed goals to do away with real estate agents .... Other pressures from some pretty impressive corners loom still. Gateways like Microsoft with MSN, AOL, CompuServe, AT&T, and Prodigy have, will have or would like to have the 'eyes' of real estate consumers. So, too, would search engines enjoy that traffic with Google, Yahoo, MSN and others all offering extensive 'real estate' results to all and sundry."[177]

174. This recognition of how their own industry could be transformed by the Internet provides a powerful motivation for TREB and certain incumbents to resist innovation in the form of VOWs.

4. Static competition is not a substitute for dynamic competition

175. Regardless of the intensity of static competition that may exist in a market, conduct that reduces dynamic competition will harm consumers. In other words, static competition is *not* a substitute for dynamic competition. For example, even in areas where there may have been numerous competing gas stations, consumers would be worse off had gas stations collectively

[177] "Electronic Data Usage Task Force Report," CREA, October 2003. [GPJR00020279/CREA00038626 at GPJR00020283.]

agreed not to invest in new pay-at-the-pump technology. Similarly, regardless of how many competing brick-and-mortar bookstores or music stores there may have been in a market, consumers would be worse off if firms such as Amazon or Apple had been prevented by a joint venture of rival retailers from selling books and music over the Internet, or if competing travel agents had been able to prevent the emergence of Internet sites such as Expedia or Travelocity. Each of these examples illustrates that despite significant levels of pre-existing *static* competition, consumers benefitted significantly from *dynamic* competition.

176. The same is true in the real estate industry: despite the presence of thousands of competing agents in the GTA, consumers will suffer if TREB prevents or thwarts market innovation. That is, regardless of whether there is significant static competition among existing agents, consumers can still benefit by changes in *how* those agents compete.

B. VOWs are an important form of dynamic competition and source of new entry

177. VOWs represent a potentially important innovation in how brokers and agents can compete and serve consumers. Rather than being forced to rely upon an agent to serve as a channel through which real estate information is funneled, consumers can use a broker's VOW to search that information on their own. VOWs can also allow consumers to readily access other types of information that many home buyers care about: what schools serve a particular home, how housing prices in that neighbourhood have been changing over time, neighbourhood demographics and crime rates, or public transportation in the area. As discussed below, VOWs can also lower brokers' cost by increasing their overall productivity, thus enabling them to offer lower prices or rebates to consumers.

178. By offering more attractive services and by offering lower prices or rebates to consumers, VOW-based brokers and agents change the manner in which they interact with consumers. Rather than focusing their services on providing information (and perhaps driving consumers from house to house), brokers and agents can concentrate on the provision of other real estate services associated with a home purchase or sale where they have greater expertise relative to consumers, e.g., helping to negotiate a contract or helping consumers navigate the process of buying or selling a home.

179. VOWs also represent an important source for new entry. New technology creates opportunities for new firms to enter a market. This is what has happened in the United States with new VOW-based brokerages such as ZipRealty and Redfin entering the market and achieving a significant competitive presence.[178] The same is likely to occur in the GTA if VOWs are allowed to compete without TREB-imposed handicaps. Such entry is particularly important

[178] ZipRealty has claimed to be one of the five largest residential real estate brokerages in the United States. [ThinkEquity's 7th Annual Growth Conference Presentation, September 16, 2010 (http://phx.corporate-ir.net/phoenix.zhtml?c=180169&p=irol-irhome).]

when, rather than simply replicate what existing firms offer, entrants offer new types of services that consumers value or (by dint of their greater productivity and lower costs) can offer consumers lower prices.

180. As discussed in greater detail below, by first excluding VOW-based competitors and then disadvantaging VOW-based competitors from the market, TREB has reduced dynamic competition.

C. TREB's past and ongoing conduct distorts the competitive process

181. TREB's conduct has distorted and continues to distort the competitive process. These market distortions and the resulting harm to competition go beyond the harm caused by TREB's exclusion and disadvantaging of VOW-based broker competitors. Rather, these distortions affect the very nature by which firms compete in the GTA's real estate markets by not only changing the rules of the competitive market to TREB's own rules, but also by creating uncertainty about those rules and how those rules might subsequently change in response to competitors' future conduct or innovations.[179]

182. Market distortions that TREB's conduct has created include:

- *Distorted incentives relating to investing in new technologies*. Investing in a VOW technology can be quite expensive: ViewPoint, for example, has invested approximately [redacted] in its VOW, while Enchine (Realty Executives Plus) has invested over $500,000.[180] Such investments become quite risky when TREB can change the rules of the competitive game at any point in ways that threaten to ruin brokers' investments.[181] More generally, TREB's abuse of market power by altering the rules by which firms can compete means that firms are likely to be uncertain about the payoff for any future investment in new technology that might help them better compete at the expense of other market incumbents. That increased uncertainty will result in reduced investment.

- *Distorted incentives relating to how firms choose to compete*. By preventing innovative brokers from competing for increased market share, TREB sends a signal to firms that there is a risk associated with any new business model or behavior that threatens market

[179] See generally Industry Canada ("the Canadian marketplace requires effective frameworks and regulations to provide businesses and consumers with some degree of certainty and predictability and to ensure that Canadian firms have every opportunity to innovate .... Efficient marketplace frameworks and regulations are also necessary to facilitate competitiveness and to build and maintain consumer and investor confidence." [http://www.ic.gc.ca/eic/site/ic1/nsf.eng/06214.html.] See also the general economic literature on this point, including Caballero, R. and Pindyck, R., "Uncertainty, Investment, and Industry Evolution," *International Economic Review* (37), August 1996, pages 641-662.

[180] William McMullin (ViewPoint) Witness Statement, June 2012 (hereafter, "McMullin (ViewPoint) Statement") at ¶ 83 and Enchin (Realty Executives Plus) Statement at ¶ 28.

[181] This is apparently what happened to Enchin's investment in his VOW. See Enchin (Realty Executives Plus) Statement at ¶ 31.

incumbents. This signal is likely to create uncertainty, and thus discourage, innovative new forms of competition and distort firms' incentives on how to compete (e.g., whether to offer discounted services or limited service brokerages).

- *Distorted decisions regarding entry and exit*. By creating uncertainty as to the rules under which firms can compete, TREB's conduct distorts firms' incentives to both enter and exit the market. Evidence of these distorted incentives include the reluctance of several brokers to begin offering VOW services in the GTA (despite the large size of that market),[182] as well as the decision by other brokers to exit that market.[183]

183. Through this conduct, TREB distorts the competitive market and the incentives affecting how firms compete, and thus further reduces dynamic competition.

VIII. TREB'S PAST CONDUCT SUBSTANTIALLY REDUCED COMPETITION

184. Prior to late-2011, TREB effectively prevented brokers from showing MLS information on VOWs. By excluding VOW-based brokers from competing in the GTA:

- TREB prevented the dynamic competition that would have emerged, and thus harmed consumers by denying them access to innovative new services;
- TREB prevented competing brokers from adopting a technology that would increase their productivity and lower their costs, and thus realize a means by which they could offer lower prices or more attractive services to consumers;
- TREB prevented consumers from enjoying the lower commission rates that VOWs frequently offer;
- TREB preserved market distortions that help to create an incentive for a floor below which commissions will not fall.

A. Excluding VOW-based broker competition prevented dynamic competition

185. By excluding brokers from the market who sought to offer VOWs in the GTA, TREB prevented dynamic competition that would likely have resulted in valuable new services.

[182] See Nagel (Redfin) Statement at ¶¶ 56-57 on how TREB's ongoing conduct with respect to the availability of sold, pending and other data will have a "significant impact" on whether Redfin enters the GTA market.

[183] See Enchin (Realty Executives Plus) Statement at ¶¶ 28-31 and 37 on how TREB's conduct caused him to exit the market, and on how TREB's ongoing conduct makes it less attractive to re-enter that market.

1. TREB excluded innovative VOW-based competitors

186. TREB prevented the emergence of the more full-featured VOWs that offer services that many consumers value. For example, when Bell New Ventures Real Estate (BNV) attempted to offer a type of VOW-based brokerage service in the GTA in 2007, TREB terminated BNV's MLS access.[184] By doing so, TREB effectively excluded BNV from the market.[185]

187. TREB has also likely excluded many other VOW-based brokers from the GTA market. The immediate emergence of several VOWs in the wake of TREB's relaxed treatment of VOWs suggests that, had TREB allowed VOWs even earlier, there would have been numerous VOWs operating in the GTA prior to 2011.[186] Thus, but-for TREB's prohibition on allowing VOW-based brokers to use MLS data, there would likely have been many more competing VOWs in the GTA.

188. The likelihood that, but for TREB's conduct, there would have been multiple VOWs operating in the GTA before 2011 is further confirmed by evidence regarding VOWs' presence in other areas of Canada where VOWs are *not* effectively excluded from the market.[187] My research shows that there are numerous VOWs across the country, including VOWs in Vancouver and the northern British Columbia area, Calgary, Edmonton, Regina, Saskatoon, and Halifax.[188] VOWs are also common throughout the U.S.[189]

2. TREB prevented innovation that would have benefitted consumers

189. The competitive significance of TREB's conduct stems in part from the fact that the excluded VOW-based brokers offer something unique relative to what other brokers offer: innovative new services that consumers value, often with significantly lower prices. In cases such as this where the excluded competitors offer something unique and valued by consumers, exclusion reduces competition and harms consumers even if numerous traditional competitors remain in the market, and even if the excluded competitors would have (at least initially) realized only a small market share.

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[184] My understanding is that, at the time TREB cut off BNV's MLS access, BNV did not require that consumers enter into a terms of use agreement. It is unclear if BNV would have offered this registration requirement if TREB had made that a precondition for its continued operation.

[185] See *Fraser Beach Opinion* at ¶¶ 1 and 51 [GRMR0012_00000285.], and *Court of Appeal* at ¶ 3. As previously discussed, TREB similarly terminated MLS access for RealtySellers and Enchin's VOW. See Section IV.A.

[186] The VOWs that emerged include TheRedPin, Realosophy, and RealtySellers.

[187] At least some of these VOWs may face the same kind of information disadvantages that VOWs currently face in the GTA. Those VOWs' ability to achieve at least some market presence, despite facing information disadvantages, speaks to consumers' demand for accessing real estate information through VOW platforms.

[188] In addition to my own research to find VOWs in different parts of Canada, myRealPage, a technology provider that helps brokers set up VOWs, identifies certain real estate boards across Canada that offer VOW data feeds. See http://training.myrealpage.com/print.php?id=145.

[189] In addition to national VOWs such as ZipRealty and Redfin that operate in numerous cities across the U.S., individual brokers frequently operate their own VOWs in the particular city in which they operate.

a) VOW-based innovations benefit home buyers

190. VOWs provide consumers with significant innovative services not readily available in a traditional brick-and-mortar setting.[190] These benefits generally stem from the ease with which consumers can access important real-estate related information such as maps, photos, videos and information relating to schools, demographics, and housing values.[191] Such information can help consumers learn about the market, select neighbourhoods, and narrow their search for a home. [192]

191. VOWs also offer an automated search process. Once a VOW user identifies the profile of houses in which he or she is interested, the consumer effectively delegates the search process to the VOW. Moreover, not only will the VOW perform the *initial* search, the VOW can continually and automatically check *new* listings to see if they satisfy the buyer's search profile. The VOW will then send an email to the buyer as soon as a new listing is added to the MLS that fits the home buyer's search profile.

192. There are two benefits to buyers from being able to institute a continuous, fully automated search. First, it ensures that the buyer is immediately informed about new listings of interest – an important consideration in hot real estate markets. Second, the automated search substantially reduces the time that consumers need to spend continually checking for new listings.[193]

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[190] TREB acknowledges that VOWs provide additional services to consumers: "This new and exciting policy will increase competition within the system… Consumers can expect access to richer information than found on REALTOR.ca through these VOW's." ["News Release – TREB Takes Further Action to Increase Quality and Protect Consumers' Privacy Rights," TREB, August 25, 2011 (TREB00049464 at '464).] Also see ZipRealty's 2011 10-K report at page 7 ("Neighborhood data and related compelling content: In addition to the MLS data, our system is designed to provide users with access to a broad range of information about their potential home without having to rely on a real estate professional or other party to provide that information to them. Our website provides several tools to help users educate themselves during the process, including relevant neighborhood data such as population, comparable home sales, average income, education level, occupation mix, cost of living, crime statistics, weather, school district information, maps and driving directions. The website displays compelling spatial information, including school district boundaries, neighborhood boundaries and parcel boundaries, in addition to mapping contextually relevant information such as schools, transit stations and businesses.")

[191] See, in general, witness statements from McMullin (ViewPoint), Enchin (Realty Executives Plus) and Nagel (Redfin).

[192] For example, Realosophy offers a service called "Neighbourhood Match", an online tool that finds home buyers their best matches from over 170 Toronto neighbourhoods based on personalized criteria including budget, school quality, house type, and walkability [http://www.realosophy.com/NeighbourhoodMatch.aspx and Pasalis (Realosophy) Statement at ¶¶ 10-11.]. Similarly, TheRedPin advertises that it offers consumers a "[w]ealth of third party information" related to each home listing including school rankings and ratings, over 10 years of real estate investment statistics, and the proximity to more than 100,000 local businesses. According to TheRedPin, with this service consumers "can do full research in minutes, without doing a lot of leg work or hours of driving around in each neighborhood." [http://www.thered pin.com/company-info/about-theredpin]

[193] Consider the problems faced by a buyer who checks for new listings every morning. If the buyer's search shows 15 homes that meet their criteria on Monday, but 17 homes that meet their criteria on Tuesday, the buyer must then go through the 17 homes listed on Tuesday to identify which two homes are new. In fact, even if the buyer's search shows 15 homes on both Monday and Tuesday, the buyer still needs to carefully review all of Tuesday's listings

193. VOWs also provide other valuable services that are not typically offered by more traditional agents including the ability to conduct searches and learn about the real estate market on holidays and outside normal business hours.[194] Agents are also using VOWs to offer other types of services that are unique relative to what consumers can obtain by working directly with a traditional agent, such as the ability to do "virtual tours" of different neighbourhoods using features such as Google's StreetView, thus getting a much better sense for local traffic and the look and feel of different neighbourhoods.[195] And while it may be possible for consumers to collect all of that information themselves (e.g., by switching back and forth between different websites that offer different types of information), having all of those real-estate related features on a single, integrated website can be attractive.[196] In addition, by enabling consumers to search by town and price to see what's available in that area in their price range, VOWs can help consumers learn about the market, select neighbourhoods, and narrow their search for a home.

194. The future is likely to bring further innovations as firms compete to offer VOWs in creative ways to add value and attract consumers. For example, ZipRealty in the United States recently offered a new feature called StreetSketch on its mobile application which works on Apple and Android phones. According to a news report, StreetSketch "allows users to use the tip of their finger to trace out a search area of any size or shape on a map. The app then returns all for-sale homes within the highlighted area."[197] ZipRealty's mobile app also allows its customers to save a home listing, synchronize it with their home computer, get driving directions, ask a question, or request a visit.[198]

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since there could be three new listings together with three of Monday's listings no longer showing up because the homes were sold.

[194] See, for example, McMullin (ViewPoint) Statement at ¶ 33 in which he states that his website provides "a competitive advantage for our brokerage by offering the same information on our website, where people can access it at their convenience and control their own pace of learning about the market, specific neighbourhoods, or particular properties of interest to them."

[195] As the Toronto Star recently reported: "TheRedPin.com has set the bar high with a simple to navigate site that serves up a fascinating smorgasbord, some 160 bits of information per property compared to Realtor.ca's roughly 40. Users can filter by type (detached, two-storey, triplex, with fireplace, finished basement) and see immediately from a pop-up map the home's proximity to parks, good schools, churches and stores. You can even 'walk' down the street with a click of the Google Street View feature." ["Toronto Real Estate: Traditional realtors face challenge by online players," *The Toronto Star*, February 24, 2012 (http://www.thestar.com/business/article/1136370--toronto-real-estate-traditional-realtors-face-challenge-by-online-players).]

[196] "An important recurring suggestion [from REALTORS] was to make vast improvements to REALTOR.ca, making it the best online portal for real estate and a one-stop shop for consumers and REALTORS." ["Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 20.]

[197] See "ZipRealty iPhone app updates include 'StreetSketch' custom search tool - App now allows users to draw their own property search area," *Inman News*, October, 19, 2011. [http://www.inman.com/news/2011/10/19/ziprealty-iphone-app-updates-include-streetsketch-custom-search-tool.] A video demonstration of StreetSketch can be seen on Youtube.com. [http://www.youtube.com/watch?v=-uqDPfzKGkc&feature=relmfu.]

[198] See ZipRealty demonstration video. [http://www.ziprealty.com/blog/zoom-your-home-searchziprealty%E2%80%99s-iphone-app-30.]

b) VOW-based innovations benefit home sellers

195. Although VOWs have principally been marketed towards home buyers, VOWs also offer innovative services to home sellers. ViewPoint, for example, provides sell-side consumers with information about the number of web-based visitors that have looked at their property, the number of showings, and additional information on recent sales and comparable properties in the area.[199] Similarly, Prudential in the United States has offered a VOW product for sellers that provides similar services.[200] These seller-focused products provide an automated means by which agents can provide sellers with information not only ensuring that sellers get the type of information they frequently seek on a regular and timely basis, but helping to reduce agents' costs .

196. VOWs also benefit sellers by increasing the availability of information about their homes. Significantly, even sellers who do not work with VOWs enjoy these benefits – by providing buyers with information about all sellers' homes, VOWs increase *all* sellers' likelihood of a more efficient match.

c) Where allowed, VOWs are popular

197. Consumers' valuation of VOWs is confirmed by the fact that, *where allowed*, VOWs are often used by many agents and consumers. As discussed, where allowed, VOWs are common in Canada. VOWs are also common in the United States, including both national brokerages such as ZipRealty and Redfin and more local brokerages.

d) Once allowed, brokers have begun competing with VOWs in the GTA

198. Brokers clearly anticipate that consumers in the GTA will also value the services that broker-based VOWs can offer. Since TREB has begun allowing VOWs to use some MLS data, VOWs have begun to emerge in the GTA. These newly emerging VOWs include TheRedPin, RealtySellers, and Realosophy.[201]

199. Looking into the future, there are likely to be even more VOWs competing in the GTA. As of April 2012, approximately five months since TREB's VOW policy went into effect

[199] McMullin (ViewPoint) Statement at ¶ 62. See also Nagel (Redfin) Statement at ¶¶ 38-41 for other innovations.

[200] http://www.prudential.com/view/page/public/11601.

[201] As discussed in Section IX below, however, this emergence of VOWs in the GTA does not mean that TREB's decision in 2011 to allow VOWs in the GTA has eliminated all competitive concerns. Rather, as discussed below, even though TREB now allows VOW-based brokers to compete in the GTA, TREB continues to impose significant competitive disadvantages on those brokers, and thus continues to substantially reduce competition.

allowing VOWs in the GTA, TREB has already received requests for VOW data feeds from 65 different brokers.[202]

200. As discussed in Section IX below, however, the emergence of VOWs in the GTA does not mean that TREB's decision in 2011 to allow VOWs in the GTA has eliminated all competitive concerns. Rather, as discussed below, even though TREB now allows VOW-based brokers to compete in the GTA, TREB continues to impose significant competitive disadvantages on those brokers, and thus continues to substantially reduce competition.

B. VOWs can benefit consumers by increasing broker productivity

201. Productivity increases and cost savings are important and well recognized aspects of dynamic competition that are properly viewed as pro-competitive (or "efficiency gains").[203] Although efficiency gains might be thought to inure to the benefit of firms, not consumers, this is not correct: firms have incentives to pass savings along in the form of lower prices or higher quality services as a means of competing for customers. Thus, productivity benefits associated with VOWs are an important means by which VOWs can offer the significant financial savings to buyers and sellers.[204]

202. VOWs can increase agent productivity during each phase of the agent's relationship with a buyer: developing that buyer as a lead; working with that buyer during the "incubation" process in which the buyer is learning about the market but is not yet ready to make an offer on a home; and working with the buyer during the "active" phase in which the buyer is ready to make an offer. Similar productivity gains on the sell-side are also likely.

1. The lead development period

203. VOWs help agents – particularly less experienced agents with smaller referral networks – develop leads and establish relationships with potential buyers. Rather than finding an agent based on word-of-mouth recommendations or an agent's solicitations through mailbox flyers, customers are increasingly finding an agent through the Internet.[205] By reducing the amount of effort agents require to develop leads, VOWs increase agent productivity and allows them to

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[202] These 65 requests for VOW data feeds include requests from the three specific VOWs mentioned above: TheRedPin, Realosophy, and RealtySellers. [Answers to Undertakings Given on the Examination for Discovery of Donald Richardson, April 20, 2012, Question No. 2337 and Tab 1.]

[203] By an "efficiency gain" I mean something that allows competing firms to increase output, lower their costs or otherwise offer a product or service that is either lower-priced or more attractive to consumers.

[204] See, for example, Nagel (Redfin) Statement at ¶ 52 who states, "These and other efficiencies in the way Redfin and our agents provide services allow us to offer a lower price to our buyers and sellers."

[205] Customers who sign up with TheRedPin, for example, are assigned a RedPin agent with whom they can initiate contact at any point in their housing search (or decision to sell their home). According to TheRedPin's CEO, the VOW website itself generates new customer leads which "actually frees up agent time to focus on the client's best interest." See "Online Realty Touts Customer Service Record," Canadian Real Estate Wealth, March 12, 2012. [http://canadianrealestatemagazine.ca/news/item/1077-online-realty-touts-customer-service-record.]

spend more time providing real estate services to customers.[206] As stated by William McMullin of ViewPoint:[207]

> "It was also apparent that significant costs and time could be avoided by not opening a physical brokerage and trying to expand geographically by gradually adding real estate sales agents to our business, but rather by focusing on a website to attract customers. If successful, the time and effort used by Realtors to locate new customers – which we learned takes up a very significant part of a traditional Realtor's time – would be considerably reduced."[208]

204. By reducing the importance of building a referral base through past customers, VOWs can also put less established agents on a more competitive footing vis-à-vis more established incumbents. McMullin states that ViewPoint's VOW has allowed them to become successful much more quickly than would have otherwise been possible, and that without their VOW, "there would have been years of work [to] overcome the advantages of the incumbent traditional brokerages and obtain [as much work as they have] in a comparable 9-month period."[209] This represents a potentially disruptive aspect of VOW technology that may help to facilitate increased price competition among agents.

205. Agents or brokers who operate VOWs can also partner with high-traffic Internet sites to help them acquire new customers.[210] Individuals who visit a portal and express an interest in seeing a home or speaking with a local agent can then be handed off to the portal's VOW partner. Alternatively, a broker who is adept at attracting Internet traffic could establish a VOW and educate prospective buyers about the market by providing them with real estate and listings information. Once that buyer is interested in visiting specific homes, the broker could hand the

[206] See Nagel (Redfin) Statement at ¶ 7 stating that "[b]ecause our customers find our brokerage through redfin.com, Redfin's agents can focus on delivering customer service rather than spending most of their time generating leads (that is, finding people who are interested in buying or selling a home)." Nagel further states (¶ 44) that Redfin's business model is more efficient than a traditional brokerage because its agents "do not need to prospect for additional clients .... New buyers and sellers are introduced to our brokerage though their use of Redfin.com, rather than through personal efforts by agents which, in a traditional brokerage, is a time-consuming and expensive part of an agent's business." See also Enchin (Realty Executives Plus) Statement at ¶¶ 7-9.

[207] See also ZipRealty in the United States which states that its VOW is designed in part to serve that purpose: "Powerful, lead generation capabilities: The attractiveness of our award-winning website brings consumers directly to us, and we guide consumers to our website through a variety of marketing channels, including search engine optimization, viral and social media, online advertising, and word of mouth. We also acquire consumer leads by purchasing them from third parties. Our centralized lead acquisition and distribution function not only generates lead volume, but also helps to manage lead acquisition costs, while empowering real estate professionals to spend less time marketing and more time servicing their clients and building their pipeline." [ZipRealty 2011 10-K Report, at page 3, *emphasis excluded*.]

[208] McMullin (ViewPoint) Statement at ¶ 17. See also McMullin (ViewPoint) Statement at ¶¶ 7-8.

[209] McMullin (ViewPoint) Statement at ¶ 28.

[210] These partners are sometimes characterized as "Affiliated VOW Partners" ("AVPs"). See, for example, TREB's VOW Rules and Policies where an AVP is defined as "an entity or person designated by a TREB member to operate a VOW on behalf of the Member, subject to the Member's supervision, accountability and compliance with the VOW Policy." [TREB's "Virtual Office Website (VOW) Rules and Policies" (TREB00006904 at '920).]

educated customer over to an agent without an established referral network who may be better suited to guiding the buyer through the remainder of the home purchasing process.[211]

2. The incubation period

206. Many buyers go through an "incubation period" in which they gather information about what kind of home they can afford in different neighbourhoods, the attributes of different neighbourhoods, and how quickly houses are selling once listed. During this period, buyers are typically not ready to make an offer but are instead trying to learn about the market.[212] Absent a VOW, agents are responsible for searching the MLS and providing the buyer with market information.

207. VOWs eliminate much of this interactive search process by allowing consumers to search MLS listings themselves and then have the VOW *automatically* update the search as new listings become available, including information that could take a significant amount of time for the agent to track down (e.g., maps, schools, and recent sales). As stated by John Pasalis, President of Realosophy (an emerging VOW in the GTA), "agents must invest time to pull together information for clients on every house a client is interested in, reducing the time available to analyze and advise on properties." Pasalis goes on to state how this can provide "obvious cost savings and efficiencies" as well as help "ensure a smoother, less stressing and time-consuming real estate transaction for both buyer and seller clients."[213]

208. By helping to ensure that consumers are better informed, VOWs can also significantly increase agents productivity. As stated by ViewPoint:[214]

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[211] ViewPoint Realty, for example, has used its VOW in this way. See McMullin (ViewPoint) Statement at ¶ 22.

[212] See, for example, McMullin (ViewPoint) Statement at ¶ 77: "This information provided through a website allows the potential buyer or seller to self-educate at a point in time where he or she may not yet be ready to enter a transaction but instead needs to understand more about the market."

[213] See John Pasalis (Realosophy) Witness Statement, June 20, 2012 at ¶¶ 20 and 34. Hereafter, "Pasalis (Realosophy) Statement." See also Enchin (Realty Executives Plus) Statement at ¶¶ 9-10 indicating that "My VOW also reduced the time I spent responding to client requests. Before my VOW, my clients would call me for information when they saw an advertisement for a home that interested them .... I would speak with them, access the MLS myself, and then send them the information by email or otherwise .... My VOW saved all those steps .... By enabling my clients to do the work themselves, my VOW saved me about 20-30 minutes each day per active client. It also improved the service I offered to my clients: they got the information they needed at their convenience and immediately, without having to wait for me to get back to them." See also Nagel (Redfin) Statement at ¶ 49 indicating that the email notifications his VOW provides are not only beneficial to consumers, but "also are time-savers for agents (they can focus on giving advice to clients, rather than spending time keeping them up-to-date on developments about properties that may interest them)."

[214] See also a recent ZipRealty press release stating, "The productivity-enhancing technology that ZipRealty offers to agents and brokers is second-to-none. … For real estate professionals who seek more productive ways to conduct business, ZipRealty provides technology and online marketing tools to enhance their online sales channel, including lead generation, conversion and service of their clients." ["ZipRealty Strengthens Brokerage Operations Adding Accomplished Real Estate Executive in Newly Created Role," ZipRealty Press Release, May 8, 2012 (http://www.reuters.com/article/2012/05/08/idUS230623+08-May-2012+HUG20120508).] Similarly, another recent ZipRealty press release states: "The Company's proprietary technology, including its agent productivity platform,

> "We recognized early on that the education of buyers and sellers, and the preparation of [Comparative Market Analyses], are both very labour intensive for Realtors, but that much of the effort could be done by the computer and made easily accessible through a website .... In effect, some of the work done by Realtors could be done by the customer in a self-service online format on viewpoint.ca. The time savings for Realtors is obviously significant and the convenience and immediacy of the results benefit customers."[215]

209. This increased agent productivity reduces agents' costs and allows them to offer lower prices.[216] Increased productivity also increases agents' capacity to serve customers, thereby creating incentives for agents to compete more vigorously through lower prices and better service.

3. The active period

210. Following the incubation period, buyers enter an "active" period in which, having learned enough about the market, they are ready to make an offer. Although the type of information a buyer seeks during this active phase may differ from the information they seek during the incubation process, buyers continue to seek detailed information.[217] Moreover, especially in "hot" real estate markets, the buyer is likely to want this information immediately – unlike the incubation process where a more leisurely pace is feasible, a buyer may want all that information immediately upon learning about a new listing so that they can decide whether to make an offer before another buyer does.

211. VOWs help agents operate more efficiently during this active phase. By largely automating not only a buyer's initial search request, but also the need to continually go back and re-search the database to see if there are any new listings on the MLS that meet the criteria of any one of the agents' buyers, VOWs free up a substantial amount of the agent's time and allow agents to accept additional customers that would otherwise be turned away or not given adequate levels of support.

212. VOWs can also significantly reduce the time that an agent spends as the customer's "tour guide." In a more traditional relationship without VOWs, agents spend a substantial portion of

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helps increase the efficiency of real estate agents while reducing customer acquisition and management costs, allowing the Company to invest in making its value proposition differentiated and more attractive both to home buyers and sellers and to agents." ["ZipRealty Announces Third Quarter 2011 Results," ZipRealty Press Release, November 1, 2011 (http://us.vocuspr.com/Newsroom/Query.aspx?SiteName=ziprealty&Entity=PRAsset&SF_PRAsset_PRAssetID_EQ=73035&XSL=PressRelease&Cache=).]

[215] McMullin (ViewPoint) Statement at ¶ 81.

[216] As noted by Ham and Atkinson, savings offered by internet-intensive brokerages are possible because "buyers who use the Internet consume so much less of the agents' time by viewing fewer homes, using address information to do initial site visits, doing more independent research on neighborhoods and mortgages, and so on." [Shane Ham and Robert Atkinson, "Modernizing Home Buying," *Progressive Policy Institute*, March 2003, at page 9.]

[217] For example, once a buyer identifies a specific home for which they are considering making an offer, they are likely to be interested in details on past sales prices for comparable homes, how many days that particular home has been on the market, whether there have been any past price reductions (and if so, when), and the estimated property taxes on the home.

their time driving customers back and forth to visit homes. VOWs can significantly reduce the number of visits to homes in which the customer is ultimately uninterested.[218] This results in further increases in agent productivity.[219]

213. These means by which VOWs can increase agent productivity are consistent with findings from a 2006/2007 California Association of Realtors study. That study concluded that buyers' ability to preview homes online enables buyers to "narrow down what they wanted before meeting their agent, reducing the number of homes they needed to visit in person."[220] The study found that 55 percent of the buyers identified specific homes they would like their agent to show on the Internet, while 58 percent of them used the Internet to preview homes so that they could narrow their search.[221]

4. VOWs increase sell-side agent productivity

214. Historically, a significant portion of a sell-side agent's time is spent on getting the listing. This typically involves showing potential sell-side customers where the agent has recently sold homes, the prices that homes in the area have sold for, and prices of homes in the area that are currently on the market. To the extent possible, these sell-side meetings may also provide additional information about homes for which comparable prices are being shown to establish just how comparable they are (e.g., where are they relative to busy roads, are they in desirable school districts, and what shape is the home in). Even after the seller has agreed to list their home with the agent, sell-side agents can also spend a considerable amount of time providing their seller with information on why their house hasn't yet sold, by for example, showing them average time on market.

215. VOWs can facilitate a sell-side agent's work by giving customers direct access to much of the information that the agent would otherwise have to provide to the consumer. VOWs can

[218] For example, by providing a series of photographs or a video, a customer might learn from a VOW that they simply do not like the appearance of the home, while being able to see the home on a map might eliminate the house for consideration because it is too near a busy street.

[219] See, for example, Enchin (Realty Executives Plus) Statement at ¶ 8 indicating that his VOW meant that he "did not have to drive home buyers to as many home showings as I had done before. Instead, home buyers spent their time navigating and searching my VOW for homes that interested them .... For this reason, I showed about 30% fewer homes once I began operating my VOW."

[220] California Association of Realtors, "Internet Vs. Traditional Buyer, Real Estate Research Report," 2006-2007, at page 5. Hereafter, "Internet Vs. Traditional Buyer, Real Estate Research Report." That study also found that, after contacting an agent, buyers using the Internet looked at half as many homes (6.7 vs. 15.4 homes) as those who did not use the Internet ["Internet Vs. Traditional Buyer, Real Estate Research Report" at page 5.] The study notes that since "Internet buyers devoted more time researching on their own before meeting with an agent compared to traditional buyers, … they spent less time working with an agent, during which they viewed significantly fewer homes before making a purchase." ["Internet Vs. Traditional Buyer, Real Estate Research Report" at page 1.] Although this study focuses on the benefits of the Internet in general, all of these benefits should also apply to VOWs.

[221] California Association of Realtors, "Internet Vs. Traditional Buyer, Real Estate Research Report," 2006-2007, at page 29.

provide sellers with continuous feedback on the type of information that sellers would otherwise be calling their agent to inquire about: how much interest is the market showing in their home, is the market heating up or slowing down, are other comparably priced homes in their area selling, and how do new listings compare in terms of price and value? By allowing consumers to get that information directly (and more rapidly) from the VOW, agents can reduce the amount of effort they exert in terms of marketing a home and responding to the seller's questions. That reduced effort in turn allows the agent to either serve additional customers or focus their efforts in those areas where they have particular expertise.

C. VOWs can pass along cost savings in the form of lower prices

216. By increasing agent productivity and reducing costs, VOWs create incentives for agents to increase the number of customers they serve. One way of doing this is to offer lower prices, either in the form of rebates to buyers or commission discounts to sellers.[222] This is precisely what many VOW-based brokers do, even while offering consumers full service:[223]

- *TheRedPin* in the GTA offers to rebate 25 percent of their buy-side commission to customers;[224]
- *RealtySellers* in the GTA offers to rebate 25 percent of their buy-side commission to customers, and a sell-side commission as low as 0.5 percent;[225]
- *Realosophy* in the GTA charges a commission of only 1.5 percent to sellers;[226]
- *Redfin* in the United States offers buyers a rebate of as much as 45 percent of its buy-side commission;[227]

[222] Lower costs increase unit profits. With increased unit profits, agents have strong incentives to try to increase volume. One way of increasing volume is to offer lower prices. Thus, agents have incentives to 'share' their cost savings with consumers. Agents can also try to increase volume by offering additional or improved services to consumers, with those services paid in part by the agents' higher unit profits. Thus, once again, agents share their savings with consumers. The greater the competition that exists among agents, the greater these incentives to share cost savings will be. Thus, if VOW-based competition intensifies, agents' incentives to share their cost savings in the form of lower prices or improved services will similarly intensify.

[223] See Desai (Realosophy) Statement at ¶ 12 indicating that "Because we reduce the cost of marketing to consumers through our particular use of technology, Realosophy is able to offer prices to sellers that are lower than many other brokerages in Toronto without compromising quality of service."

[224] http://www.theredpin.com/realty/theredpin-rebate-program.

[225] http://realtysellersrealestate.com/programs/ for-buyers/ and http://realtysellersrealestate.com/programs/seller-agency-services/.

[226] http://www.realosophy.com/Corp/SellerServices.aspx.

[227] See http://blog.redfin.com/blog/2012/02/introducing_redfin_30_redfin_becomes_a_no-brainer_introducing_redfin_30_redfin_becomes_a_no-brainer.html. See also Nagel (Redfin) Statement at ¶¶ 52-54.

- In their early days of operation in the United States, *ZipRealty* and *eRealty*[228] offered home buyers rebates of approximately 20 percent and 33 percent, respectively, as well as lower commission rates to sellers. [229]

217. Although not all VOW-based brokers offer discounts or rebates, brokers that do so offer consumers the opportunity to realize substantial savings: for a $400,000 home with a 2.5 percent buy-side commission, TheRedPin's rebate to the buyer would be $2,500. On the sell-side, a RealtySeller's sell-side commission discount from 2.5 percent to 0.5 percent would save the seller $8,000.

218. Increased VOW penetration in the GTA would likely make such discounts even more widely available to GTA consumers. In fact, if as few as one percent of sales in the GTA were to go through VOW-based brokers offering a 25 percent discount on the buy-side commission, consumer savings in the GTA would total approximately $2.75 million per year, with even greater savings if VOWs succeed in gaining even more market share and continue to offer significant discounts.[230]

D. VOWs allow a shift in effort that can lead to lower sell-side commissions

219. Absent an ability to effectively monitor sell-side agents' efforts in marketing a home, there exists an incentive problem in which sell-side agents may not exert sufficient effort to market a home. Commission payments mitigate that incentive problem by encouraging the sell-side agent to exert greater effort: the higher the commission, the greater the agent's incentive to sell the home. On the other hand, a seller that pays a low sell-side commission runs the risk that their agent will not work as hard to give their home the proper level of exposure and that the home will languish on the market.[231]

220. It follows that commission rates may be affected not just by competition, but by consumers' need to keep commissions high enough that agents have incentives to take the appropriate effort to help their customers. This need to provide sell-side agents with the proper

[228] eRealty was purchased by Prudential in 2004 as a means to strengthen Prudential's own VOW capabilities. [http://www.bizjournals.com/houston/stories/2004/02/02/story7.html?page=all.]

[229] See Annual Report, ZipRealty, 2009, at page 5; and Testimony Summary of Russell Capper President and Chief Executive Officer eRealty, Inc. before Federal Trade Commission Office of Policy Planning Public Workshop on E-Commerce, October 10, 2002, at page 1. Although ZipRealty decided in July 2011 to discontinue its rebate program [http://onlinepressroom.net/ziprealty.] it can always re-introduce such rebates if competitive circumstances warrant.

[230] This is based on 2011 total buy-side commissions of approximately $1.1 billion. See note 140.

[231] The relationship between commission rates and agent effort are quite explicit in the case of discount/limited service brokers who offer low commission rates, but also limit the set of services they offer in return.

incentives to market a home can create a commission floor below which sellers fear to go below.[232]

221. By providing greater exposure to homes in the MLS, VOWs mitigate this incentive problem. VOWs can significantly increase a home's exposure to potential buyers, and thus significantly reduce a sell-side agent's need to undertake marketing efforts on their own. This reduced need for sell-side marketing in turn reduces a seller's need to offer high commission payments as a means of encouraging sell-side marketing efforts.[233] Thus, VOWs can mitigate a market distortion that historically served to keep commission rates high.

E. VOW-based brokers cannot rely on alternative data feeds

222. By treating VOWs as a form of advertising, TREB forced brokers to rely on data feeds other than the MLS feed if they wanted to offer a VOW. For VOW-based brokers, however, there are no good substitutes to TREB's full MLS data feed. Accordingly, TREB's prohibition on brokers using the MLS data to offer a VOW succeeds in preventing brokers from competing through the use of VOWs.[234]

1. TREB's IDX data feed is not a substitute to the MLS data feed

223. TREB's IDX data feed is inferior to the MLS data feed: it is both incomplete and unreliable. As such, VOW-based brokers cannot turn to an IDX feed as an acceptable substitute for a full MLS data feed.[235]

a) TREB's IDX data feed is incomplete

224. First, the IDX data feed excludes the same data fields that TREB excludes from its VOW data feed.[236] For reasons discussed in greater detail in Section IX, relying on that incomplete data feed would significantly reduce brokers' ability to compete.

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[232] This is consistent with the business model of many discount brokers in which, in return for a low commission payment, they list the home in the MLS but they provide few or no other services.

[233] As previously discussed, VOWs can also reduce a sell-side agent's costs. By lowering the agent's costs, VOWs also encourage agents to accept lower commissions.

[234] The proper question is not whether there is *any* alternative data feed that a VOW-based broker could use, but rather whether there is an alternative data feed that is a sufficiently close substitute that the broker could offer consumers the same benefits. As Carlton & Salop state, "In evaluating this issue [whether excluded firms will be harmed], the mere fact that inputs are available elsewhere does not mean that the excluded competitors are not disadvantaged by the exclusion. Harm to excluded competitors can occur if alternative input suppliers are less efficient, if the input provided by the joint venture is differentiated from those of other suppliers, or if the exclusion facilitates coordinated pricing by the remaining input suppliers." [Carlton & Salop at pages 331-332.]

[235] Similarly, other data sources such as Teranet and CREA's DDF are not acceptable substitutes to brokers seeking to offer VOWs. See Enchin (Realty Executives Plus) Statement at ¶ 15.

[236] See TREB's Voluntary Information Request, November 9, 2010 (updated April 13, 2012), Tab 2A. These excluded data fields consist of both the data feeds that TREB treats as confidential and does not permit VOWs to

225. TREB's IDX data feed is also inferior to a full MLS data feed because it fails to provide any information about a high percentage of properties in the GTA that are for sale. TREB's IDX data feed only includes homes for which the sell-side broker has provided its permission to advertise. In the GTA, brokers frequently do not provide that permission. As shown in Exhibit 8, permission to advertise was not provided for more than half (54.5 percent) of all listings in the GTA during the 2007 to 2012 time period. Thus, a VOW that relied on an IDX data feed would fail to show more than half of the homes that a buyer would potentially be interested in seeing and learning about.

226. The extent to which an IDX-based VOW would suffer from holes in its coverage is shown in Exhibit 9a. This exhibit estimates, by region, the share of listings that would be missing from an IDX-based VOW by calculating the share of listings from 2007 to 2011 that were excluded from the IDX data feed.[237] As shown, in most areas of the GTA, an IDX-based VOW would be missing at least 30 percent of all listings, while in other areas (e.g., Kingsway South (Toronto) and Markham Village (York), over 70 percent of listings would be missing from an IDX-based VOW.[238]

227. These factors render an IDX data feed a very poor substitute to a more complete MLS data feed. This was recognized by Marc Lafrance, the Marketing Director for CREA, in a CREA presentation regarding IDXs and VOWs:

> "If you're going to create a VOW that provides a data field that is going to have the same access as [MLS.ca] you're not going to be doing yourself a service at all. You're really going to tick off that consumer. Because you're not giving themselves anything else that's not provided on [MLS.ca]"[239]

228. It follows that, for the consumers that CREA characterizes as wanting "accurate, immediate, and open access to information," a VOW based on IDX data will fall short of what consumers want and expect.[240] As such, an IDX-based VOW will not be competitively significant in the GTA.

b) TREB's IDX data feed is unreliable

229. Brokers can opt out of having their listings shown on an IDX data feed, thus further reducing the share of listings that can be shown on a broker's VOW. This renders an IDX data feed an unreliable alternative to a full MLS data feed.

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show, but also certain data fields that TREB has not designated as confidential but still excludes from its VOW data feed (e.g., days on market; open house information; links to virtual tours, and original price information).

[237] For the purposes of this exhibit, a region is defined as a postal code FSA. I excluded from the analysis any FSA that had fewer than 50 closed transactions (these FSAs account for less than one percent of all closed transactions).

[238] See Exhibit 9b for more information at the community level.

[239] CREA00032008 at '012.

[240] "Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 14.

230. The threat of IDX opt-out is significant because a single corporate brokerage often accounts for a high share of listings in a particular region, and opt-out by even one or two large corporate brokerages can significantly increase the magnitude of the problem with respect to missing listings. Exhibit 10a illustrates this by showing the share of listings in each region (postal FSA) that are accounted for by the largest corporate brokerage in that region. As shown, there are a substantial number of regions throughout the GTA in which, if the largest corporate brokerage in that region were to opt-out of the IDX, at least 30 percent of listings would go missing in the IDX data feed.[241] Thus, even if TREB's IDX data feed ever got to the point of including almost all listings, it would be a fragile outcome that a single corporate broker could reverse by opting out of the IDX.

231. IDX opt-out is a real possibility. First, brokers' willingness to opt-out of TREB's IDX is evidenced by the fact that IDX opt-out rates are already very high in the GTA. Second, brokers' incentives to opt-out of TREB's IDX will be even greater if brokers perceive that IDX-based VOWs are creating significant new competition. In fact, this type of retaliatory conduct on the part of at least some brokers likely explains TheRedPin's claims that some competing brokers have asked it to remove their listings from TheRedPin's VOW website.[242]

232. Even without actual broker opt-out, the *threat* of opt-out increases a broker's risk of investing in a VOW-based business model. This risk reduces the attractiveness of adopting a VOW-based approach to competing, and thus can be expected to reduce the likelihood that brokers will offer VOWs based on an IDX data feed.[243] Thus, even the *threat* of opt-out can reduce competition from VOW-based brokers.

c) Brokers chose not to try offering VOWs using IDX data feeds

233. The inferiority of an IDX data feed is further evidenced by the fact that, when unable to use an MLS data feed, GTA brokers chose *not* to offer a VOW rather than try to offer a data-limited VOW. For example, TheRedPin chose *not* to compete in the (residential) market prior to 2011 when the only available data feed was the IDX data feed. It was only when brokers were finally given a VOW data feed (albeit a restricted feed) that TheRedPin concluded that VOWs would be sufficiently attractive to consumers that it decided to introduce a VOW in the GTA.

234. Finally, the emergence of numerous VOWs in the immediate wake of TREB's decision to allow brokers to use at least some MLS data for their VOWs, even though those brokers could

[241] See Exhibit 10b for more detail on the share of the five largest GTA corporate brokers (by commissions) in each of the communities within the GTA.

[242] See "Internet Realtor Says There's 'Nothing to Fear,'" *REMonline.com*, April 20, 2012. [http://www.remonline.com/home/?p=11918.] Because TheRedPin was using an MLS data feed, TheRedPin did not need those brokers' permission to show their listings.

[243] ViewPoint indicates that it has invested almost [redacted] in its VOW technology. See McMullin (ViewPoint) Statement at ¶ 83.

have previously offered IDX-based VOWs, speaks to the perceived inadequacy of an IDX-based VOW.

2. VOWs cannot rely on other data feeds

235. I have also considered whether there might be other alternative data feeds that a VOW could reasonably rely on as a substitute for the full MLS data feed. In my opinion, there are none.

236. In addition to considering whether an IDX data feed might be a viable substitute to an MLS data feed, I considered whether a VOW might be able to rely on a brokerage-only data feed. For those listings, the broker would be free to provide as much data as desired.

237. Although I note that some brokers offer websites that focus only on their own corporate brokerage's listings, a corporate brokerage-only data feed would be a poor substitute to the full MLS dataset for a broker seeking to offer a VOW. As shown in Exhibit 11, even the largest corporate brokerage in the GTA (Brokerage E) accounts for less than a third (31.7 percent) of all listings in the GTA, while other corporate brokerages account for far fewer listings (Brokerage D, the second largest corporate brokerage, accounts for only 17 percent of listings in the GTA). Thus, a brokerage-only data feed would leave even the largest corporate brokerages with very poor coverage for their VOWs, and leave any brokerage outside the top five corporate brokerages able to show buyers fewer than 2 percent of all properties on the market.

238. Exhibit 11 also shows that a VOW forced to rely solely on brokerage-only data feed would be similarly disadvantaged in specific Areas within the GTA. Again, even the largest corporate brokerage (Brokerage E) would be unable to show buyers approximately 60 to 70 percent of the available listings in any particular Area, with smaller brokerages unable to show an even higher share of available listings. With a brokerage-based VOW incapable of offering consumers anywhere near the full coverage of available homes that consumers demand, that brokerage-based VOW would face a significant competitive disadvantage.

F. MLS-based VOWs provide unique competitive benefits

239. Although VOWs are not the only means by which consumers can learn about the real estate market, they constitute a unique means by which brokers can compete: other means by which brokers can compete do not provide consumers with the same competitive benefits or potential for lower prices. As a result, by harming VOW-based brokers, TREB's conduct also harms competition.

240. IDX websites are an imperfect alternative to a VOW for at least two reasons.[244] As previously discussed and shown in Exhibits 8, 9a and 9b, IDXs in the GTA typically omit roughly half of all available listings. IDXs also fail to include information about sold homes, pending sales, homes that have been taken off the market, and buy-side commission rates.[245]

241. Data feeds are not the only distinguishing factor between VOW and IDX websites: the *features* of IDX and VOW websites also differ. While consumers using VOW websites must provide their contact information before they can use the VOW, consumers on IDX sites remain anonymous. And while this anonymity may appeal to many consumers, it means that IDX websites have no way of alerting consumers about changes in the market. This prevents IDX websites from offering services such as automatic email notification of new listings and favorites/saved listings.[246] This anonymity also means that IDXs have no real way in which to offer commission rebates or discounts as VOWs often do.[247]

IX. TREB'S ONGOING CONDUCT SUBSTANTIALLY REDUCES COMPETITION

242. TREB's 2011 VOW Policy prohibits VOWs from showing TREB's "excluded data fields," thereby imposing a competitive disadvantage on VOW-based brokers that does not apply to more traditional brokers.

243. In addition to being some of the most difficult data to find outside of the MLS, TREB's excluded data fields are some of the most competitively important fields in the MLS: not only do those excluded data fields contain information that consumers want to see, those excluded data fields are the fields that, if made available on VOWs, would most likely help mitigate principal-agent problems that create market distortions and elevate commission rates. Thus, TREB's ongoing conduct substantially reduces, and will continue to reduce, competition among brokers in the GTA.

[244] Note that the question of whether an IDX website is a good substitute to a VOW is a subtlety different question than the previously discussed question: is a VOW with an IDX data feed a good substitute to a VOW with an MLS data feed? The second question focuses on how an inferior data feed affects the competitive significance of a VOW, while the first question focuses on whether consumers looking for brokerage services are likely to find an IDX website is a good substitute to a VOW website for reasons that may go beyond their different data feeds.

[245] The importance of these data fields is discussed in greater detail in Section IX below.

[246] See, for example, Nagel (Redfin) Statement at ¶ 20 regarding email notifications of new listings or listings that have been recently placed under contract or sold.

[247] The foregoing is not meant to imply that IDXs are an imperfect technology or that consumers do not like IDXs. Rather, *both* VOWs and IDXs can both be good technologies and valued by consumers, but because they serve different purposes, the technologies are not good *substitutes* from the perspective of consumers looking for brokerage services.

A. The emergence of handicapped VOWs does not prevent a reduction in competition

244. While TREB has ostensibly allowed VOW-based brokers in the GTA since late-2011, TREB continues to discriminate against those brokers in how they can use the MLS data and how they can compete. Thus, despite the emergence of VOWs in the GTA, there remains a key competitive question: is TREB's ongoing discrimination against VOW-based brokers continuing to disadvantage those brokers in ways that reduce those brokers' competitiveness, with the effect that competition is substantially reduced relative to what it otherwise would have been?

245. The evidence shows that the answer to this question is yes. As discussed in the remainder of this section, by denying VOW-based brokers full access to MLS data for their VOWs, TREB discourages entry of VOW-based brokers and reduces those brokers' ability to compete, and thereby continues to engage in exclusionary conduct that has the effect of substantially reducing competition relative to what would otherwise be the case.[248]

B. TREB's discrimination against new business models reduces competition

246. TREB's discrimination against new business models constitutes an impediment to how competitive markets operate. In competitive markets, firms seek to offer innovative new products or services that will appeal to consumers or that will reduce costs so that price reductions are possible. Firms have incentive to innovate in these ways as long as they believe those innovations will result in higher profits.[249]

247. By preventing VOW-based brokers from showing the same information that their more traditional brick-and-mortar-based rivals routinely show to consumers, TREB restricts the manner in which brokers can compete and discriminates against brokers' ability to adopt a new business model that they believe might help them better compete. By substituting its own decisions on how innovation should (or should not) proceed for the decisions of the market and consumers, TREB distorts the competitive market process and prevents firms from making their own decisions on whether the use of VOWs is the best way to compete.

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[248] This is consistent with "The Abuse of Dominance Guidelines." In those guidelines, the Bureau states its concern with "conduct that makes it more difficult for competitors to be effective. Exclusionary conduct is designed to make current and/or potential rivals less effective at disciplining the exercise of a firm's market power, to prevent them from entering the market, or to eliminate them from the market entirely .... Exclusionary strategies can include foreclosing access to key inputs .... [and] may be profitable if the costs of the strategy are offset ... by maintaining revenues that would otherwise be lost owing to entry." The Bureau goes on to note that, "a substantial lessening or prevention of competition creates, preserves, or enhances market power .... [for example] by erecting or strengthening barriers to expansion or entry ...." ["The Abuse of Dominance Guidelines" at pages 12-13.]

[249] Of course, not all innovations are successes: firms sometimes miscalculate demand for their new product. There are several notable examples, including "new Coke," Apple's "Newton" computer tablet (a predecessor to the iPad) from the 1990s, Segway vehicles, and 3-D movies in the 1950s. But economists generally agree that markets are the best arbiter of consumers' valuation of a product, and consumers are best served by competitive markets in which firms choose whether to pursue a particular innovation.

248. TREB's conduct also harms competition by distorting firms' incentives to engage in other forms of innovation. Once firms observe that TREB's decisions trump market decisions, the risk that TREB will stamp out future innovations can lead firms to cut back on other efforts to innovate. Similarly, TREB's involvement in deciding which innovations are allowed to go forward can be expected to bias the direction in which firms seek to innovate: firms may become much less willing to pursue innovations that could be seen as helping some firms compete at the expense of others if TREB is likely to prevent such innovation.

C. TREB's "excluded data fields" protect the broker's "central" role

249. Many of the data fields that TREB has agreed to provide as part of its VOW data feed are already available through its IDX data feed. Thus, in making those data fields available to VOWs, TREB did little to increase the amount of data that brokers could provide to consumers.[250] In contrast, the data fields that TREB continues to exclude from its VOW data feed remain some of the most difficult data fields for consumers to access outside the context of an MLS.[251]

250. TREB's choice of the data fields that it prohibits brokers from showing on their VOWs serves the goal of keeping agents and brokers in their role as an information intermediary, and thus central to any real estate transaction.[252] As discussed further below, TREB's excluded data fields are competitively significant and important to consumers. By maintaining exclusive control over those fields, and preventing consumers from accessing that information over the Internet, TREB maintains the need for consumers to work more directly with agents and brokers: unlike the travel industry and other industries where the Internet has allowed consumers to avoid the need to work with an agent-intermediary to access information, TREB's conduct with respect

[250] The principal difference is that this information will be available for virtually all property listings in a VOW data feed, while only available for approximately half of all listings in TREB's current IDX data feed.

[251] To assess the ease with which sold information can be obtained in the GTA, I conducted the type of internet search, comparable to what a typical home buyer or home seller might undertake, to try to find that information. Despite significant effort, I was unable to find any type of comprehensive data source. Although such information may be available through public records, if obtaining that information requires an in-person visit to the record-collecting center, that will effectively prevent most consumers (or brokers) from collecting the information, particularly on an on-going basis.

[252] A February 2011 letter from TREB's outside counsel (the law firm of Gardiner Roberts) to RealtySellers makes clear that TREB expects agents to act as an intermediary "buffer" between the information in the MLS and consumers. In commenting on RealtySellers' plan to provide consumers with access to the excluded data fields on its VOW-based website, TREB's letter states "This raises the concern that you do not intend to play a meaningful role in assessing the inquiry and actually standing and operating as a *buffer* between the consumer and the MLS property information that is provided to you as a TREB member." [Letter from Jeffrey B. Rosekat, Gardiner Roberts, to Allan Spivak, Vice President and Broker of Record, RealtySellers, February 4, 2011 (TREB00022770 at '771), *emphasis added*]

to the excluded data fields ensures that agents and brokers will retain their role as an information intermediary through which consumers must go in order to access the excluded data fields.[253]

D. TREB's prohibitions reduce VOW-based brokers' ability to compete

251. TREB's excluded data fields represent information that have considerable value to many consumers. Prohibiting VOWs from providing that information causes direct harm to consumers. Equally important, prohibiting brokers from showing this information on VOWs effectively discriminates against, and disadvantages, VOW-based brokers in their attempt to compete. The loss of that dynamic competition further harms consumers.

1. Consumers want all the information and they want it now

252. Consumers seek different types of information. First, consumers want to be sure their agent can provide them with timely information about all the listings that meet their particular search criteria. An agent that can only identify some of the listings that meet a consumer's search criteria, while failing to identify others, will not be attractive: buyers don't want to risk missing out on their dream home (especially in "hot" markets where the number of available listings may be limited) because their agent failed to tell them about it. In other words, as stated by CREA :

> "[Consumers] are demanding more of [organized real estate] – new ways of doing business, more choices, more flexibility, transparency, communication, and more information quicker than ever before. *They want it all and they want it now*. They want easy access to information and want to feel in control over the process."[254]

253. CREA further stated:

> "[Consumers] also want accurate, immediate, and open access to information, tailored to their specifications. They want to know the property features, history, and neighbourhood information, with no exaggeration."[255]

254. Further, Gary Simonsen, Chief Executive Officer at CREA since 1997, testified that he agreed with a 2008 CREA Board of Directors document stating, "[c]onsumers want more information" and "[c]onsumers want more than just public sites which provide ads about MLS properties available for sale, *they want it all*."[256]

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[253] For example, a 2011 CREA report indicated that "REALTORS are perceived as indispensable and the heart of the real estate transaction .... " ["Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at pages 8-9.]

[254] "Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at pages 13-14, *emphasis added*.

[255] "Exploring Possible Futures for Organized Real Estate in Canada: Insights from Cross-Canada Dialogues," CREA, 2011, at page 14.

[256] Examination for Discovery of Gary Simonsen, April 5, 2012, at pages 129-130, *emphasis added*.

255. The belief that consumers want as much real estate information as is available, including TREB's excluded data fields, is further echoed by ViewPoint:[257]

> "we believed that consumers would want all the available data [from the MLS]. This included not only current listings but also other data including listing dates, price changes, status (currently for sale, pending sale, expired, withdrawn and sold). I believe that the popularity and use of viewpoint.ca by both consumers and Nova Scotia Realtors confirms that the data is of great interest and importance to them."

2. TREB's excluded data fields are useful to consumers

256. Each of TREB's excluded data fields provides useful information for consumers seeking to learn about real estate markets and how to assess market values for homes, and reduces the information asymmetry that exists between consumers and agents.

- ***Sold data***. As testified to by TREB's CEO, the price of sold properties "is certainly an important piece of information" to buyers and sellers.[258] Buyers and sellers need access to sold data so that they can not only see the price that other sellers are asking for similar properties, but so they can see how much the home ultimately sells for.[259] The information also helps consumers learn how homes are valued, how quickly homes sell depending on their price (and value), and how often homes in particular communities typically come up for sale.[260] Information about sold homes also allows consumers to assess the market value of certain attributes (e.g., neighbourhood, an extra bedroom, or a 3-car garage). Information on sold listings also helps consumers learn how factors such as days on market affect selling price.[261]

- ***Commission data***. All else equal, a lower commission rate may signal to buyers that there is more opportunity to negotiate a lower sales price. Thus, information about buy-side commission rates can provide buyers with an important negotiating tool. Information on buy-side commission rates can also educate buyers about the extent to which buyers have

[257] McMullin (ViewPoint) Statement at ¶ 75.

[258] Examination for Discovery of Donald Richardson, March 19, 2012, at page 130. See also Richardson's testimony that "it's just common sense that consumers want to know" recent sold information. [Examination for Discovery of Donald Richardson, March 19, 2012, at pages 135-136.]

[259] See, for example, Enchin (Realty Executives Plus) Statement at ¶ 34 indicating that, "sold and pending sold data [is] in my experience the most essential data a Realtor can provide to his or her clients. It helps home buyers and sellers understand what is happening in the marketplace and price homes accordingly."

[260] Richardson testifies that sold data is important to determine the proper listing price. [Examination for Discovery of Donald Richardson, April 3, 2012, at pages 459-460 and 489-490.] See also Nagel (Redfin) Statement at ¶¶ 19-21.

[261] As one Toronto agent states on her website when discussing CMAs, "SOLD'S represent the reality of the market and this is the most important number to use when determining market value." [www.lydiasellshomes.com/4a_realestatenews.php?id=132806.]

been able to realize lower prices in cases where the seller has set a lower commission rate.

- ***Withdrawn, expired, suspended or terminated ("WEST") listings***. Like sold data, information on "non-active" listings helps buyers better understand the determinants of home prices: by seeing information on homes that never sold and the list price for those homes, consumers can learn more about determinants of market value.

- ***Pending listings data***. The more recent the information about sold homes, the more accurate and useful that information will be.[262] I analyzed TREB's MLS data and determined that the median duration between the "sale date" and the "close date" for sold homes in the GTA from 2007 to 2011 was approximately 7 weeks. Thus, access to information on pending home sales eliminates an information lag that would otherwise exist and provides consumers with a more real-time view of the market than would be the case if consumers only had access to sold data.[263]

257. Consumers can also learn about market values by looking at homes that were on the market but were ultimately unsold and taken off the market: such listings help to show how setting a list price above market value can affect the likelihood of selling a home.

3. By providing a restricted data feed, TREB disadvantages VOW-based competitors

258. Forcing VOW-based brokers to rely upon an inferior data feed disadvantages those brokers and reduces their ability to compete. Inasmuch as those VOW-based competitors would have offered improved services that consumers value, TREB's disadvantaging of competitors in this way has the effect of substantially reducing competition.

259. Enchin of Realty Executives Plus is explicit about how brokers need to be able to show sold and pending sold data to consumers in order to compete: "Inability to provide sold and pending sold data to clients hurts a Realtor's business." He goes on to note that "[t]he inability to offer the appraisal feature [which relies on sold and pending sold data] disadvantages my 2012

[262] See, for example, McMullin (ViewPoint) Statement at ¶¶ 79-80 who states, "Providing very recent MLS data to customers who are actively buying or selling about changes to the status of an active (currently listed for sale) property, and data about sales in the very recent past, is a critically important and a very attractive service provided by our website." McMullin goes on to state, "In general, recent sales of comparable homes are the most helpful and important to customers. So 'pending' sold information ... is very helpful in most cases."

See also, for example, the website of one Toronto agent who states that "[t]he most helpful information comes from homes for which the sale has either already closed *or is pending*." [www.jimmathesonrealtor.com/sellers/home-selling-analysis, *emphasis added*.] That agent also notes that CMAs are used for both buyers and sellers.

[263] This is especially true in "hot" real estate markets.

VOW and the Realtors who wish to use it" and that, absent TREB's excluded data fields, his new VOW "lacks critical functionality."[264]

260. McMullin of ViewPoint also makes clear that TREB's conduct has left him disadvantaged and less able to compete. In fact, McMullin believes that the competitive disadvantage associated with TREB's exclusion of certain data from the VOW data feed is so significant that he has chosen not to compete in the GTA market, despite his desire to do so had the full MLS data feed been available:

> "For obvious reasons, we are not spending any time trying to enter those markets [Toronto] as we cannot enter the markets with the competitive disadvantage of having no access to a feed of the MLS data. TREB has made its VOW data feed available since late November 2011 ... but due to its lack of content, ViewPoint has not attempted to use that feed to provide brokerage services."[265]

261. McMullin makes clear why TREB's restricted data feed disadvantages VOW-based brokers:

> "We have to be able to compete for consumers' business with traditional brokerages. Unless we can provide the same MLS information through our website as those traditional brokerages can through conventional means (in person, by phone, email, etc.), then we will rarely succeed to convince a customer to list or buy with ViewPoint. *Without a full dataset from the MLS system, we would be unable to compete effectively*."[266]

4. Where allowed, VOWs choose to show "excluded data fields"

262. The value of TREB's excluded data fields is evidenced by the fact that, where allowed, VOWs typically make these data fields available to consumers. For VOWs where I have been able to assess the information available to registered users, I have confirmed that they offer information regarding sold data, pending sales, and WEST listings.

- *ViewPoint*: ViewPoint in Nova Scotia shows information on sold properties, pending sales, and WEST listings.

- *ZipRealty*: ZipRealty in the United States shows information on sold properties, pending sales, and WEST listings.

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[264] Enchin (Realty Executives Plus) Statement at ¶¶ 3, 34 and 37. See also Pasalis (Realosophy) Statement at ¶¶ 6 and 28 indicating that his VOW's "inability to have a data feed with sold, pending sold and 'real time' data such as price changes limits [Realosophy's] ability to provide services to consumers online ...." and that his VOW website is "hampered by the lack of many fields of data in TREB's VOW feed, including ... historical sales and 'pending' sales data."

[265] McMullin Statement (ViewPoint) at ¶ 25. Similarly, Lawrence Dale of RealtySellers states in his affidavit that the disadvantage associated with TREB's exclusion of certain data from the VOW data feed is so significant that RealtySellers is currently unable to use a VOW to expand its service offerings in the GTA. See Affidavit of Lawrence Mark Dale, September 1, 2011, at page 4.

[266] McMullin (ViewPoint) Statement at ¶ 78, *emphasis added*.

- *Redfin*: Redfin in the United States shows information on sold properties, pending sales, and WEST listings.[267]

263. Finally, I note that the evidence indicates that VOW-based competitors in the GTA would *like* the ability to compete by showing TREB's excluded data fields. As stated by RealtySellers, one of the GTA's newly emerging VOWs, "We would love to provide our visitors with a facility to search all properties reported sold on the MLS® but current industry conventions do not support such an initiative."[268] Similarly, the President of Realosophy states that "[i]f we had access to the data about sales of specific properties, including very recent sales, we would display them on our website to the extent we were permitted," and that Realosophy believes that buy-side broker commission offer rates should be included in the VOW data feed.[269]

5. *CMAs provide evidence of the importance of TREB's excluded data fields*

264. Consumers place significant value on the comparative market analyses (CMAs) that agents routinely provide to consumers. Those CMAs, however, are *based* on TREB's excluded data fields (sold data, pending sales, and WEST listings), as well as active listings. The evidence that consumers place significant value on CMAs confirms the value that consumers attach to TREB's excluded data fields that underlie those CMAs.

a) Consumers demand CMAs so that they can assess market values

265. CMAs compare homes with similar attributes in similar areas and allow consumers and agents to see market prices for sold homes, current prices for existing listings, and list prices for homes that have been taken off the market. CMAs also show the length of time sold homes were on the market, how long existing listings have been on the market, and other information pertinent to assessing the market price for a home.

266. CMAs help sellers determine what price to set for their home and whether subsequent price adjustments are warranted.[270] CMAs help buyers determine a fair market value for homes

[267] As Redfin states on its website, "We always show as much data as we can" and "We show all the information that each MLS allows." [http://www.redfin.com/help/search/ search-sold-homes.] See also, Nagel (Redfin) Statement at ¶¶ 5-6.

[268] See http://tosolds.ca/?page_id=6. I understand that RealtySellers is currently trying to provide a work-around fix to this prohibition by emailing the information to consumers. By forcing the broker to serve as the information intermediary, and by preventing consumers from being able to conduct interactive searches, this work-around fix is likely to be a poor alternative to having RealtySellers provide direct consumer access to that information.

[269] Pasalis (Realosophy) Statement at ¶¶ 38 and 47.

[270] As TREB notes on its website, a CMA helps consumers determine "a fair listing price," with the analysis based on "comparable *sold*, active and *expired* properties, retrieving information such as *sold price*, list price and *average time on the market* to help determine a range of fair listing prices." [http://www.torontorealestateboard.com/ buying/buying_&_selling/multi_listing.htm, *emphasis added*.] Similarly, as stated on the HomeGain website, "What is a CMA? The best method available to home sellers to learn their home's current value so they can select the best sale price is a CMA." [http://www.homegain.com/info_center/seller/ listing/what_is_cma/show_article.]

and assess whether that value differs from the home's list price. In other words, as stated on many websites of GTA agents, the CMA provides consumers "an indicator of what today's buyers are willing to pay for a home."[271] As stated by one prominent U.S. VOW-based brokerage (Redfin) that recently began offering this information to consumers:

> "Estimating a home price is more art than science. When the home owner and her real estate agent both have access to the same information, it becomes a productive conversation and it paints a much more accurate picture of the home's value .... The Home Price Tool [Redfin's online tool that provides CMA-like information to consumers] is a kind of freedom for home owners. They no longer have to accept what their agent or some website's mystery formula tells them their home should be worth .... [The Home Price Tool] helps educate home owners about the pricing process."[272]

b) TREB's excluded data fields are valuable to consumers

267. The real estate industry recognizes the value of CMAs to consumers.[273] This consumer valuation of CMAs speaks to consumers' valuation of the excluded data upon which those CMAs are based. Evidence on this point includes:

- A 2010 article written by the then-TREB President Tom Lebour states: "your REALTOR® may develop a Comparative Market Analysis, contrasting your existing or prospective home to those recently sold in the area. *This information is vital* to helping you determine a suitable offer or listing price."[274]
- A 2005 TREB document states: "The historical uses of information on the [MLS] system are usually for comparative market analysis (CMA) and valuation purposes and that is why current and historical data is essential to the operation of the MLS system."[275]
- The president of Realosophy, John Pasalis, recently stated: "…the Commissioner [of Competition] wants brokerages to be able to download and display all historical sales on their websites. Wowza. If the Commissioner wins this battle, this will be a game changing development in the real estate industry here in Toronto. How will the real estate industry fare when every consumer has access to the exact same information they do? Will consumers turn to DIY buying? Will commissions lower?... we never thought we

[271] See the website of Wendy Smith, an agent in Toronto. [http://wendysmithtoronto.com/wendysmith toronto_marketevaluation.html.]

[272] http://www.redfin.com/about/press/releases/redfin-puts-home-pricing-power-in-consumers-hands.

[273] Although CMAs may be offered more often to sellers than to buyers, they serve the same purpose for both: they help individuals determine actual market value for homes. See, for example, the website of Jim Mathewson, an agent who operates in the GTA and prepares CMAs to help his buyer customers learn about market values for homes. [www.jim mathesonrealtor.com/sellers/home-selling-analysis.]

[274] "Shopping for the best deal in Town," Tom Lebour, Then-President of the TREB, April 30, 2010. [http://www.torontorealestateboard.com/market_news/president_columns/pres_sun_col/2010/043010_best_deal.pdf, *emphasis added*.]

[275] "What REALTORS Should Know Regarding Their Role and Property Assessments," October 25, 2005. [TREB00013455 at '456.] Similarly, see "Education Workbook [-] Complying with Privacy," Presented by Mark Weisleder, TREB, September 26, 2011, at page 58.

would see the day when brokerages would be able to publish sold data on their website. This is big. We're really excited…"[276]

- As one website states, "savvy home sellers obtain a comparative market analysis .... standard comparative market analysis reports contain the following data: Active Listings .... Pending Listings .... Sold Listings .... Off-Market/Withdrawn/Cancelled .... Expired Listings…"[277]

- As one GTA agent's website states: "There is no 'real' value [for a home] – it all depends on how much buyers are ready to pay and how little sellers are willing to accept. This can be analyzed by a comparative market analysis.... Comparing houses recently sold, existing listings, and expired listings, we can assess the current value of your home."[278]

- ViewPoint states that sold data is "of great interest to consumers."[279]

c) Brokers routinely provide CMAs and the excluded data to consumers

268. Brokers and agents in the GTA routinely provide CMAs to both buyers and sellers that include TREB's excluded data fields.[280] In doing so, brokers routinely provide consumers with the excluded data fields that TREB claims to be confidential.[281]

269. Providing this excluded data to consumers as part of a CMA is not only standard industry practice,[282] but also a practice that TREB and CREA acknowledge or recommend.[283] For

[276] "The End of Realtor.ca?" John Pasalis, President of Realosophy, and Urmi Desai, *Real Estate Trends*, July 20, 2011. [TREB00037052 at '052-'053.]

[277] See http://www.homebuying.about.com/od/sellingahouse/qt/062107CMA.htm. See also http://www.homegain.com/ info_center/seller/listing/what_is_cma/show_article.

[278] http://jamiesarner.com/selling-toronto-house/free-price-quote/. See also, http://jamiesarner.com/selling-toronto-house/pricing-home-sale/.

[279] McMullin (ViewPoint) Statement at ¶ 11.

[280] See Enchin (Realty Executives Plus) Statement at ¶ 20 indicating that "[e]ssentially, my VOW provided the same MLS data via each Realtors' website as those Realtors were able to provide, and in my experience typically did provide, by hand or email to their clients, such as through a CMA." See also Examination for Discovery of Donald Richardson, March 19, 2012, at pages 129-130; and Examination for Discovery of Donald Richardson, March 21, 2012, at pages 361-364.

[281] Brokers also provide those excluded data fields through other mechanisms (other than VOWs). Donald Richardson, the CEO of TREB, testified that TREB is aware that agents provide "Broker Full" listings to consumers that contain those excluded data fields and that TREB has no rule that prevents agents from doing so. [Examination for Discovery of Donald Richardson, March 19, 2012, at pages 116-118.] Consistent with this, Mr. Richardson also testified that TREB has never disciplined any broker for sending "Broker Full" listing information to consumers. [Examination for Discovery of Donald Richardson, March 19, 2012, at page 117.] Similarly, John Di Michelle, TREB's Chief Information Officer, testified in another matter that agents can provide "Broker Full" listings, including pending solds, to their customers. [Examination under Rule 39.03 of John Di Michele, February 5, 2009, at pages 96-97 and 167-171.]

[282] See, for example, one agent's website stating, "It is *standard practice* for a seller to ask real estate agents to visit and evaluate their home. Ask for a comparative market analysis showing the *selling prices* of similar homes in the

example, TREB acknowledges that CMAs typically include excluded data on pending solds and expired properties:

> "For sellers, a REALTOR® can use the [MLS] system to determine a fair listing price by performing a comparative market analysis. This analysis focuses on the geographical location of your property and describes it as accurately as possible. The database can then be searched to reveal comparable sold, active and expired properties, retrieving information such as sold price, list price and average time on the market to help determine a range of fair listing prices."[284]

270. See also the 2010 statement of Bill Johnston, then-president of TREB:

> "Using the MLS®, a REALTOR® can contrast your existing or prospective home with those recently sold in the area, developing a CMA or Comparative Market Analysis, to help you determine a suitable offer or listing price."[285]

E. TREB's ongoing conduct likely discourages entry of VOW-based competitors

271. By denying brokers full MLS access for their VOWs, TREB reduces the competitive viability and likely success of VOWs. This reduces the likelihood that a broker will adopt this form of innovative technology and begin competing with a VOW. As a result, TREB's conduct discourages entry by VOW-based competitors.

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neighbourhood, those currently on the market and *those that didn't sell*." [http://www.suttonquebec.com/5-selling-guide/Establishing-your-asking-price.html, *emphasis added.*]

[283] TREB has confirmed that "TREB members do employ sold data in providing CMAs to sellers." ["Answers to Undertakings Given on the Examination for Discovery of Donald Richardson", May 15, 2012, Response to Questions 1465-1467, at page 2 (hereafter, "TREB Undertakings")] Consistent with this, TREB offers software as part of the MLS that allows agents to create CMAs for their customers that include excluded data. ["TorontoMLS Contacts and CMA [-] Hands-On Course Workbook," Toronto MLS, July 26, 2011, at Chapter 2 – Creating a CMA] Donald Richardson, the CEO of TREB, testified that he assumes some agents are providing CMAs to their customers. [Examination for Discovery of Donald Richardson, April 20, 2012, at pages 656-657.]

TREB also acknowledges that CMAs typically include excluded data on pending solds and expired properties: "For sellers, a REALTOR® can use the system to determine a fair listing price by performing a comparative market analysis. This analysis focuses on the geographical location of your property and describes it as accurately as possible. The database can then be searched to reveal comparable sold, active and expired properties, retrieving information such as sold price, list price and average time on the market to help determine a range of fair listing prices." [http://www.torontorealestateboard.com/buying/buying_&_selling/multi_listing.htm.] Similarly, in September 2010 the then-president of TREB, Bill Johnston, stated "Using the MLS®, a REALTOR® can contrast your existing or prospective home with those recently sold in the area, developing a CMA or Comparative Market Analysis, to help you determine a suitable offer or listing price." ["Coming to 'Terms' with Real Estate," Bill Johnston, Then President of TREB, September 17, 2010 (http://www.torontorealestateboard.com/market_news/president_columns/pres_sun_col/2010/091710_re_ terms.pdf).] CREA also acknowledges the use of excluded data in CMAs: "Property information, including sales data, is kept in the MLS® database following the completion of the transaction and is available to users of the system for comparative market analysis and valuation purposes." [http://www.crea.ca/content/privacy-code-faqs.]

[284] http://www.torontorealestateboard.com/buying/buying_&_selling/multi_listing.htm.

[285] "Coming to 'Terms' with Real Estate," Bill Johnston, Then-President of TREB, September 17, 2010. [www.torontorealestateboard.com/market_news/president_columns/pres_sun_col/2010/091710_re_terms.pdf.]

272. ViewPoint Realty is one example of a VOW-based broker that has chosen not to enter the GTA market because of TREB's ongoing conduct. Although ViewPoint would like to enter and compete as a VOW-based broker in the GTA market, ViewPoint has concluded that TREB's excluded data fields are sufficiently important that, absent access to that data, it will not enter. McMullin, CEO of ViewPoint, states:

> "ViewPoint would like to offer our web-centred brokerage model in Toronto ... At this time, we cannot do so in Toronto in a commercially viable way, due to TREB's VOW Policy and Rules and the lack of content in the VOW data feed offered by TREB to its members. Specifically, we need data about properties that have been sold (including recently sold properties) ... in order to compete effectively using our brokerage model. The data we are restricted from accessing is available to competing brokerages that rely on Realtors to disseminate such information. If we could access all of the MLS data ... I believe that ViewPoint would have the basis for competing in that market. Without it, we will have no realistic basis for competing effectively."[286]

273. The fact that some brokers have chosen to enter the GTA market does not contradict this conclusion since, absent TREB's conduct, there may have been even more entry or even greater investment in that entry. Moreover, those excluded entrants would likely have offered even more attractive products to GTA consumers than what is currently available.

F. TREB reduces VOWs' ability to mitigate market distortions

274. VOWs mitigate market distortions caused by principal-agent relationships. By preventing VOWs from showing TREB's excluded data fields, TREB reduces VOWs' ability to mitigate those distortions, thus reducing competition, harming consumers and helping to perpetuate higher commission rates.

1. TREB prevents VOWs from facilitating efficient matches

275. Agents have incentives to steer consumers into inefficient matches at the expense of the buyer, the seller, or both. That problem is exacerbated by TREB's refusal to let VOWs show the excluded data fields.

a) Steering is a significant problem

276. Agents' incentives and ability to steer consumers towards transactions that favor the agent at the consumer's expense is well recognized. McMullin (ViewPoint's CEO), for example,

[286] McMullin (ViewPoint) Statement at ¶ 10. See also McMullin (ViewPoint) Statement at ¶¶ 104-106 ("ViewPoint would very much like to offer services in Toronto through a website in much the same manner as we do in Nova Scotia. But without the sold and pending sold data, it is not commercially viable to offer ViewPoint's 'web-based' brokerage model in the Greater Toronto Area." As a result, McMullin states that "[o]ur business is essentially excluded due to the absence of the sold and pending sold data in the feed." He goes on to state that, "[w]ith a comprehensive VOW data feed from TREB, ViewPoint could and would offer website-based services that would be very attractive to Toronto customers.")

notes that ViewPoint feels the need to offer a large commission to buy-side agents in order to attract those agents and their customers.[287]

277. *The Real Estate and Business Brokers Act's* (REBBA's) own Code of Ethics recognizes this steering problem, and attempts to mitigate it, by labeling such conduct an ethical violation that it prohibits.[288] Such codes of conduct, however, are unlikely to be particularly effective at stopping the conduct inasmuch as such conduct would be extremely difficult to monitor or enforce.[289] This problem was acknowledged by CREA in a recent speech by its Corporate Legal Counsel which discussed agents' incentives to steer buyers away from listings offering low buy-side commissions:

> "As it stands right now, hordes of real estate agents are constantly in breach of their agency duties because they are not showing buyers all of the properties available that meet the buyer's requirements, because many of those properties only pay $1.00. And the agent ain't working for a dollar. So those properties get shifted to the back, where hopefully the buyer won't see them. And that of course is a problem. The licensee has an agency obligation to show everything whether or not a commission is being paid. But we're being naïve if we really think that's happening. I'm shocked that there is not a ton of litigation on this."[290]

278. This misalignment of incentives and the resulting competitive distortions was also noted in two separate government reports in the United States. In their 2007 report, the USDOJ and USFTC stated:

> "... consumers may be unaware of the possibility that their brokers may have conflicting interests that lead them not to provide the consumer with the best possible advice .... brokers have certain incentives to 'steer' consumers toward those homes that offer the highest cooperating broker commission payment and away from homes listed by brokers known to charge home sellers discounted commission rates. In this manner, brokers can take advantage of their superior knowledge of market conditions by steering clients away from home listings that otherwise match the criteria identified by the consumers, but provide lower financial gains for the broker than other homes."[291]

279. That report also stated:

> "...consumers also may be unaware that when they pay their broker a commission based solely on a percentage of the sales price at closing (as most do today), *the broker's financial incentives are not necessarily aligned with the consumer's*. On the sell side of the transaction, the consumer's interest is to sell the home at the highest possible price. Even though an agent's commission increases with the price of the home, he or she likely retains no more than 1 to 2 percent of the sales price (after paying the cooperating broker and the agent's brokerage firm). Therefore, the

[287] McMullin (ViewPoint) Statement at ¶ 63.

[288] Ontario Regulation 580/05 Code of Ethics, Real Estate and Business Brokers Act, 2002, November 10, 2005, Section 19.

[289] For example, in discussing challenges it faces, TREB acknowledges that "[n]ot all agents are ethical" [TREB's 2010/2011 Strategic Plan (TREB00034418 at '420).]

[290] See William Harrington Speech to CRG Saskatoon, May 26, 2011 [CREA00038366 at '399.] and Examination for Discovery of Gary Simonsen, April 5, 2012, at pages 208-209.

[291] 2007 USDOJ/USFTC Real Estate Report at page 27.

> agent may be less willing than the consumer to take the risks associated with getting a higher sales price, such as waiting for what might be a better offer and perhaps having to do additional work.
>
> Likewise on the buy side of the transaction, the broker may be less interested than the consumer in negotiating the lowest possible sales price because a lower sales price translates into a lower commission for the broker, likely requires additional work, and may increase the risk that the transaction falls through with no commission paid to the broker. Consumers may be unaware of these potential conflicts of interest."[292]

280. Similarly, in a 2005 report, the U.S. Government Accountability Office noted:

> "When choosing among comparable homes for sale, brokers have a greater incentive – all else being equal – to first show prospective buyers homes that offer other brokers the prevailing commission rate than homes that offer a lower rate…. A discount broker may advertise a lower commission rate to attract listings, but the broker's success in selling those homes, and in attracting additional listings in the future, depends in part on other brokers' willingness to cooperate (by showing the homes to prospective buyers) in the sale of those listings. Some discount full-service and discount limited-service brokerage firms we interviewed said that other brokers had refused to show homes listed by discounters."[293]

b) Superior information allows agents to create "inefficient matches"

281. An efficient match between a buyer and seller is one in which neither the buyer nor seller would have been better off continuing their search or keeping their home on the market. Agents, however, have incentives to push buyers and sellers into signing a contract so that they can collect their commission, even if the buyer or seller would have been better off looking for a different match.

282. An inefficient match can also result from agents' attempts to capture the commission on *both* sides of a transaction (a "dual agency" situation). This type of steering can result when an agent provides excessive encouragement to one of their own buyers to purchase a home from one of their own sellers.[294]

283. Agents can create an inefficient match by making the buyer believe a home is worth more than it really is, or making the seller believe it is worth less than it really is.[295] An agent can do this by providing biased information when showing prices for comparable homes. To convince a

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[292] 2007 USDOJ/USFTC Real Estate Report at page 28-29 (footnotes omitted).

[293] "Real Estate Brokerage – Factors That May Affect Price Competition," Report to the Committee on Financial Services, House of Representatives, United States Government Accountability Office, August 2005, at pages 13-14 (footnotes omitted).

[294] My understanding is that agents and brokers are obligated to notify their customers that a joint representation situation, and thus a conflict of interest, may exist. Notification, however, does not *eliminate* that conflict of interest.

[295] The divergence of interests between agents and consumers can also lead agents to provide misleading information in the hopes of attracting a customer's business, thus causing the consumer to make incorrect decisions about pricing. See, for example, one GTA agent's website that states: "Some agents under-value your home in hopes of creating demand. Others will flatter you with over-inflated estimates in order to get your listing but later suggest a price reduction." That agent recommends that consumers acquire information (through a CMA) so that they can make their own assessment. [http://www.suttonbrandonrealestate.com/establishing-your-asking-price.]

seller to accept a lower price, an agent might only show sold listings with a low sales price, or homes that languished on the market for an extended period of time before selling. Similarly, to convince a buyer to offer a high price, an agent might only show buyers information about recent sales where the final price was high, or where the home sold within days of going on the market.[296] Alternatively, an agent can try to distort buyers' views about true market value by showing them comparison homes that are very overpriced, thus making other homes seem more reasonably priced by comparison.

284. Agents' ability to create inefficient matches stems in significant part from their superior information relative to consumers about market values for different homes.[297] This superior information allows agents to recommend to buyers that a particular home is a good match even if other better matches could possibly be found, and to recommend to sellers that a particular offer should be accepted rather than waiting for something better. This superior information, in conjunction with the divergence of interests that can exist between an agent and their customer, creates an opportunity for agents to put their own interests ahead of their customer's interests to ensure that the deal goes forward and that commissions get paid.[298]

c) There is evidence of steering that can create inefficient matches

285. I analyzed TREB's MLS data to assess whether there was evidence consistent with steering to achieve a dual-agency outcome.

(1) Dual agency outcomes are more common than expected

286. I tested whether dual agency situations occur more often than would be expected assuming that the probability that a buy-side broker is involved in any particular transaction is equal to that broker's buy-side market share in the area.[299]

287. I identified sales in the GTA from 2010 to 2012 by the five largest corporate brokerages in the GTA.[300] I then identified the frequency of dual agency situations in which the buy-side

[296] This tactic is sometimes referred to as "pinballing" to reflect the strategy that after first showing the buyer the overpriced home, they bounce right over to the home the agent is trying to sell. "A setup or pinball property is a house listed with an unrealistically high asking price that is visiting by lots of agents and shoppers but that attracts no offers. The problem is this: Real estate agents, including even the listing agent, are using the overpriced house as a negative example to bounce buyers over to similar homes nearby that carry lower asking prices." See Washington Post, June 16, 2012. [http://www.washingtonpost.com/realestate/overpriced-pinball-houses-bounce-buyers-over-to-cheaper-properties/2012/06/14/gJQAFKhLdV_story.html.]

[297] That superior information derives from agents' access to information about the characteristics of different homes, their list prices, how quickly homes are selling, and the final sale price of those homes.

[298] As discussed in Section IX, this type of steering is a well-recognized problem.

[299] In other words, if Broker A's buy-side market share in a region is 25 percent, I assume that (absent any biases), that for any particular transaction, there should be a 25 percent chance that Broker A should be the buy-side broker. Looking at sales in which Broker A is the sell-side broker, a finding that Broker A is the also the buy-side broker in more than 25 percent of the time is consistent with steering to achieve dual-agency transactions.

broker at the corporate level was the same as the sell-side broker, and compared that to the expected frequency based on the buy-side brokers share of transactions in a particular Area (Halton, Peel, Toronto, York and Durham). I found that for each one of the corporate brokerages, and for each one of the Areas in which they compete, dual-agency situations were more common than expected. As shown in Exhibits 12a and 12b, dual-agency outcomes for Realogy occurred more than twice as often as expected in Halton and Peel, over five times more often than expected for HomeLife in Halton, and approximately three times more often than expected for Sutton Group in Toronto, York and Halton.[301]

288. I found even stronger evidence of steering when looking at dual agency situations in which a *specific agent* represented both buyer and seller. Given the large number of agents competing in any particular Area, the chances that a specific agent would end up representing the buyer who is the best match for the home that agent is selling are extremely small. My analysis shows, however, that in approximately 35 percent of cases where the buy-side corporate broker was the same as the sell-side agent corporate broker, the same agent was on both sides of the transaction.

(2) Buy-side agents appear to steer consumers away from listings with low commissions

289. I also analyzed MLS data to test the claim that agents steer buyers away from listings with low commission rates, thus creating inefficient matches between buyers and sellers.

290. If a low buy-side commission caused agents to steer their buyers away from a listing, the sell-side agent or the broker of those low-commission listings is more likely to also be the buy-side agent. Thus, to test for buy-side steering, I looked at sales across all brokerages in the GTA from 2007 to 2012 and tested whether a low buy-side commission rate reduced the likelihood that the sale would be through a brokerage other than the sell-side brokerage.

291. I found evidence supporting the buy-side steering hypothesis. As shown in Exhibits 13a and 13b, listings with low buy-side commissions are much less likely to be purchased through an agent other than the selling agent. Looking across the GTA, I found that 73 percent of listings with a buy-side commission in excess of 1 percent are sold through an agent at a different corporate brokerage. In contrast, only 49 percent of listings in the GTA are sold through an agent at a different corporate brokerage when the listing has a buy-side commission of 1 percent or less. This pattern also held when looking at the individual Areas within the GTA. Thus, the evidence suggests that low buy-side commissions cause agents at other corporate brokerages to steer consumers away from the listing, leaving the sell-side agent to make the match.

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[300] I focused on the top five corporate brokerages as a means of excluding brokerages that consumers likely recognized to be discount brokerages in which consumers might have expected a dual-agency outcome. In other analyses, however, I found that this limitation had little effect on the results.

[301] I found similar results when looking at actual versus predicted frequency of dual agency situations based on brokers' shares within a given municipality rather than an Area.

(3) Agents may use low commissions to game the system and create inefficient matches

292. Knowing that buy-side agents may steer their buyers away from listings with low buy-side commissions, sell-side agents may have incentives to purposely offer a low buy-side commission in order to realize a dual agency outcome in which they can represent both sides of the transaction and keep the entire (buy-side plus sell-side) commission.[302] Thus, sell-side agents may purposely set low buy-side commissions with the *goal* of inducing buy-side steering.

293. To test for this type of steering in the GTA, I again analyzed TREB's MLS data. I identified all sales in the GTA from 2007 to 2012 in which the buy-side commission was no more than 1 percent. I then limited the data to sales involving just the top five corporate brokerages in the GTA as a way of excluding sales involving discount brokers that may be setting low commissions on both the buy-side and the sell-side, and thus have much less incentive than full commission brokers to steer consumers into dual agency outcomes.[303]

294. I then compared the actual frequency of dual-agency outcomes for those low-commission sales with the predicted frequency based on corporate brokers' shares within each Area. I found that dual agency outcomes were more than twice (227%) the expected rate when the buy-side commission was 1 percent or less. As shown in Exhibits 14a and 14b, dual agency outcomes across the GTA occurred in 70 percent of cases where the commission was no more than 1 percent, but only in 31 percent of cases where the commission exceeded 1 percent.[304] This is consistent with agents setting low buy-side commissions as a means of discouraging buyers represented by other agents and corporate brokerages.[305]

d) VOWs mitigate problems associated with inefficient matches

295. VOWs significantly reduce the information asymmetry between consumers and agents. With complete access to data on historical sales prices, as well as WEST listings, consumers can judge for themselves the fair market value of comparable homes. Information regarding pending sales further reduces that information asymmetry since pending sales data pertains to what may be the most relevant set of homes: homes that have just recently been put under contract. With better information regarding a home's market value, buyers are less vulnerable to being encouraged to offer an excessive price, and sellers are less vulnerable to being encouraged to accept too low a price.

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[302] To the extent this occurs, the average buy-side commission may be less than the average sell-side commission. In that case, estimates of total commission payments in this report may be understated.

[303] For example, a discount broker splitting a 2 percent total commission would only get an extra 1 percent commission by capturing the buy-side commission. In contrast, a full service broker offering to split a 5 percent commission captures an extra 2.5 percent commission with a dual-agency outcome.

[304] The alternative interpretation is that commissions were not deliberately set low to discourage other agents or brokers from showing the home, but that the low commission nevertheless resulted in such steering.

[305] These findings also held when looking at individual Areas within the GTA.

296. Increased information about buy-side commission rates also allows buyers to better weigh any advice from their agent regarding a particular home. In particular, buyers can be more skeptical if an agent urges them to ignore a low commission home that otherwise seems like a good match, or if the agent urges them to make an offer on a high commission home that seems overpriced and would not be a good match. As stated by John Pasalis of Realosophy:

> "If consumers are fully aware of the commission being offered to their agent, for example, by being able to see this information on a website, buyer agents are less likely to 'screen out' any properties offering a lower than desired commission to them and instead will discuss how to proceed with their clients." [306]

297. Access to complete data regarding historical sales prices and pending sales also allows consumers to better monitor their agents' conduct. As mentioned, one way that an agent can try to distort a consumer's belief about the market value of a home is by providing a biased selection of comparable homes. A consumer with access to a VOW, however, can quickly and easily compile their own set of comparables, and thus question an agent who only provides a subset of those listings. Thus, by allowing consumers to better monitor their agents' conduct, VOWs help ensure that agents provide accurate information.

e) TREB's conduct preserves market distortions that reduce competition

298. TREB's conduct has facilitated agents' ability to create inefficient matches in the GTA. Given the importance of TREB's excluded data fields, TREB's policy which prevents VOW-based brokers from showing the excluded data fields helps to preserve its members' information advantage over consumers. In doing so, TREB has protected its members' ability to steer consumers towards inefficient matches.

299. Allowing VOWs to show the excluded data fields would increase competition in the GTA by eliminating market distortions associated with agents steering consumers towards inefficient matches. Although the elimination of those distortions may harm agents by delaying commission payments, or preventing them from steering consumers towards dual-agency outcomes where the agent captures both sides of the commission, consumers in the GTA would benefit from the more efficient market.

2. TREB's prohibitions regarding commission rates perpetuate high commissions

300. By preventing VOWs from showing information about buy-side commission rates, TREB preserves incentives that keep commissions higher than they otherwise would be.

[306] Pasalis (Realosophy) Statement at ¶ 47.

a) Buy-side steering keeps commission rates high

301. The possibility of buy-side steering reduces home sellers' incentives to negotiate for a low commission in the first place: getting a sell-side agent to agree to a four percent commission instead of a six percent commission does little good if that lower commission causes buy-side agents to steer their buyers away from the home. Thus, as long as there exists an information asymmetry so that buyers only consider those homes that their agents recommend, home sellers may be forced to offer high commission rates as a means of encouraging buy-side agents to show their home and not steer away potential buyers.

b) Allowing VOWs to show buy-side commission offers would facilitate lower commission rates

302. An agent's ability to engage in buy-side steering depends on the agent having superior information compared to the buyer. If, however, the buyer can learn for themself about what properties are for sale, buy-side steering becomes more difficult. Similarly, if the buyer knows the buy-side commission offer, the consumer will be much more skeptical about an agent's efforts to steer a buyer away from a particular property (including the agent making potentially disparaging remarks about a low-commission property that the buyer finds without the agent's help).

303. By providing buyers information about the offered buy-side commission, VOWs allow consumers to assess their agent's incentives and thereby reduce the likelihood that their agent will engage in buy-side steering.[307] For example, if an agent suggests that the buyer is unlikely to like a particular (low-commission) home that the buyer identifies through the VOW, the buyer can assess that suggestion in light of the knowledge that the agent may have a significant financial incentive to steer the buyer away from that home.

304. By reducing agents' ability to steer buyers based on buy-side commissions, VOWs change home sellers' incentives to negotiate for lower commissions: with less buy-side steering, home sellers no longer need to offer high commissions to ensure that buyers learn about the listing. Thus, allowing VOWs to show buy-side commissions facilitates increased competition among agents with respect to commissions.

3. TREB's prohibition on showing withdrawn listings helps perpetuate gaming

305. A seller whose home has languished on the market will sometimes pull their home off the MLS only to immediately re-list the home. By doing so, the home appears as a new listing. As a new listing, buyers lose ready access to information about the home's selling history: days on

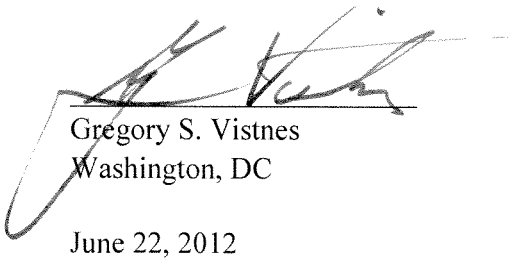
[307] As discussed in Section IX, VOWs also reduce buy-side steering by alerting the buyer to all available properties, even if their agent fails to identify low-commission properties.

market gets reset to zero and information about previous price changes may become unavailable.[308]

306. VOWs offer a means by which buyer can overcome this type of gaming. VOWs can identify homes that have previously been on the market (even if under a different MLS listing number) so that consumers can see the full history of a home's listing(s), including total days on market and all past price changes. This type of service, however, requires that VOWs have access to, and then the ability to show information regarding, listings that are withdrawn from the market.

307. By preventing VOWs from accessing and showing data regarding withdrawn listings, TREB helps to perpetuate sellers' ability to game the system by pulling and re-listing their listings. In doing so, TREB preserves agents' ability to hide important information from consumers, thus preserving market distortions and reducing competition.

I declare that the foregoing is true and correct.



Gregory S. Vistnes
Washington, DC

June 22, 2012

[308] I confirmed that this type of gaming appears to occur in the GTA by identifying instances in the MLS where a listing was taken off the market, and then immediately re-listed with the same agent but a different listing identification number.

File No. CT-2011-003

THE 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

(i)

EXPERT REPORT OF

Gregory S. Vistnes, Ph.D.

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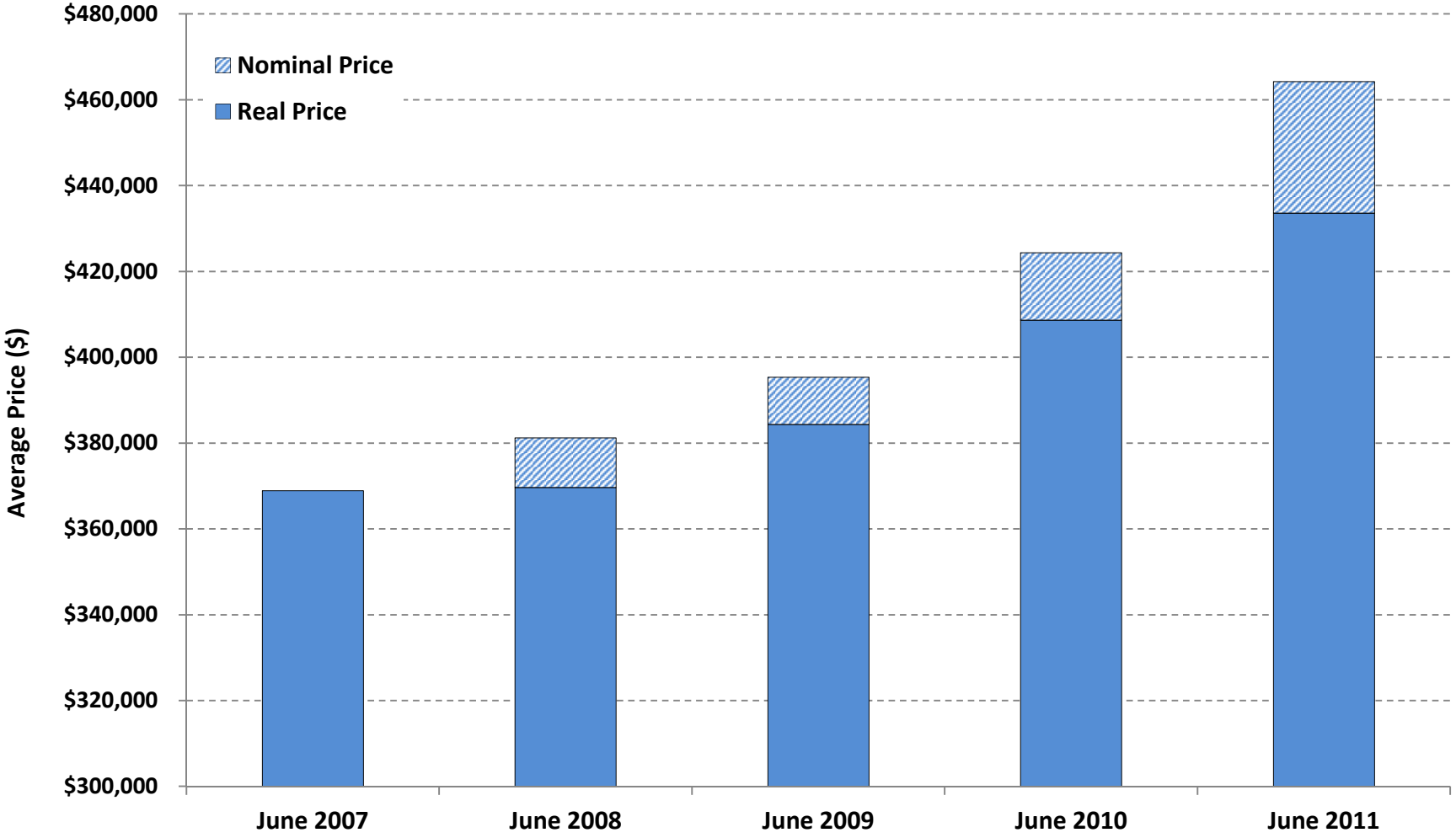
Counsel for the Commissioner of Competition

Exhibit 1a
Average Sale Price in the Greater Toronto Area
2007-2011 Sales



Source: MLS data; sold transactions.
Notes: Records in the top and bottom 1% (by year) of the price distribution were excluded. Real price calculated as nominal price divided by monthly seasonally unadjusted CPI (June 2007 used as base month, implying that in June 2007, Nominal Price = Real Price).

Exhibit 1b
Average and Median Sale Price, by Area

Average Price:

Year	Durham	Halton	Peel	Toronto	York	GTA
2007	$275,894	$398,232	$330,184	$391,056	$411,793	$369,340
2008	$278,464	$406,047	$337,814	$387,227	$422,028	$370,710
2009	$284,647	$424,423	$350,580	$405,222	$436,215	$388,324
2010	$306,761	$460,926	$378,413	$443,958	$480,748	$422,611
2011	$321,158	$494,565	$403,775	$475,372	$528,152	$455,288
2012 (Jan-Feb)	$320,315	$527,215	$412,221	$485,646	$555,394	$464,264

Median Price:

Year	Durham	Halton	Peel	Toronto	York	GTA
2007	$256,000	$350,000	$307,000	$330,000	$377,000	$325,000
2008	$258,000	$355,000	$316,000	$332,000	$385,000	$330,000
2009	$262,500	$372,000	$324,700	$346,000	$400,000	$344,000
2010	$282,650	$408,000	$346,600	$375,500	$440,000	$370,000
2011	$295,000	$439,900	$372,000	$401,000	$480,000	$399,000
2012 (Jan-Feb)	$293,000	$455,000	$375,000	$396,400	$505,000	$400,000

Source: MLS Data; sold transactions.

Notes

Records in the top and bottom 1% (by year) of the price distribution were excluded.

Prices are in nominal terms.

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices						Median Prices					
			2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007	2008	2009	2010	2011	2012 (Jan-Feb)
Durham	Amberlea	983	331,763	338,504	352,418	386,116	396,694	412,060	328,000	331,750	346,000	380,000	385,500	420,000
	Bay Ridges	600	262,233	266,513	279,695	297,067	305,963	345,173	254,750	253,500	260,000	282,000	305,000	325,000
	Beaverton	370	247,249	225,137	246,023	242,627	254,197	214,714	210,000	187,000	202,000	205,000	220,000	195,000
	Blackstock	68	248,833	276,840	225,143	263,585	283,781	226,833	255,000	262,500	227,000	248,000	262,500	225,000
	Blue Grass Meadows	961	285,127	293,717	292,298	322,525	335,543	311,866	276,000	286,000	286,500	319,000	332,000	308,000
	Bowmanville	3,971	223,986	227,172	230,461	245,638	257,452	267,153	220,000	222,500	224,700	235,000	250,000	261,500
	Brock Industrial	2				365,000	299,000					365,000	299,000	
	Brock Ridge	537	300,392	322,231	328,729	352,688	377,063	366,988	293,000	310,000	315,000	339,950	356,000	372,750
	Brooklin	1,732	316,059	327,661	336,126	365,582	380,359	417,292	295,000	316,000	318,000	346,000	364,000	375,000
	Cannington	214	218,205	231,211	217,050	251,930	228,878	234,580	212,500	205,000	186,000	210,000	216,500	234,000
	Centennial	1,074	227,919	217,410	223,725	236,433	248,916	253,536	222,000	215,000	215,000	234,900	237,500	232,000
	Central - Ajax	1,660	264,510	263,360	264,945	287,370	306,471	317,311	260,000	259,750	254,750	282,000	305,375	311,000
	Central - Oshawa	1,043	178,465	172,734	181,183	184,736	195,564	191,665	175,000	170,000	176,200	181,000	187,000	189,000
	Central East	275	345,620	338,286	330,553	368,209	336,326	361,957	363,000	355,000	337,000	354,900	310,000	340,000
	Central West	1,685	295,868	312,888	303,599	341,405	353,176	377,094	281,000	289,900	290,000	319,900	335,000	367,000
	Columbus	22	430,750	383,400	444,625	574,833	467,750		430,750	465,000	523,500	642,500	463,500	
	Courtice	2,286	246,600	262,079	252,408	270,753	284,347	278,670	233,000	245,500	240,500	256,000	266,000	260,750
	Donevan	1,067	221,290	215,620	214,683	230,450	228,011	234,865	217,900	214,000	210,000	227,500	225,000	237,500
	Downtown Whitby	951	254,510	249,397	253,237	264,188	275,373	291,533	235,000	240,000	241,450	253,250	263,000	278,000
	Duffin Heights	6					354,500	423,975					354,500	438,000
	Dunbarton	178	487,552	481,235	477,095	516,768	580,540	615,000	425,000	461,000	462,500	465,000	535,000	495,000
	Eastdale	1,044	227,130	236,808	226,903	243,884	252,217	300,519	223,500	228,500	211,450	239,550	241,000	285,500
	Farewell	94	198,245	193,954	187,232	201,991	218,188	195,500	186,000	180,000	184,000	192,500	203,000	194,000
	Highbush	505	360,539	328,916	390,447	413,301	441,775	474,514	334,750	310,000	341,000	410,000	383,000	406,000
	Kedron	82	328,468	340,746	335,589	384,556	411,579	354,500	326,375	338,000	338,000	364,250	390,000	354,500
	Lakeview - Oshawa	1,328	179,769	177,792	174,821	192,234	201,154	188,211	176,000	173,000	172,100	185,000	194,350	184,900
	Liverpool	1,256	304,597	298,072	327,531	346,950	360,922	397,489	300,000	295,000	323,500	335,000	364,000	344,500
	Lynde Creek	776	304,228	306,028	283,053	334,791	365,165	328,545	273,250	265,000	262,500	310,000	320,000	339,000
	McLaughlin	868	233,899	225,158	222,687	242,072	252,355	253,353	223,000	222,000	218,875	236,000	239,000	255,000
	Newcastle	734	265,201	258,939	256,969	285,771	294,075	307,812	257,000	243,000	247,900	272,000	274,900	295,000
	Northeast Ajax	1,011	329,811	349,908	350,443	393,726	399,028	390,313	310,375	315,000	340,000	375,000	377,000	386,250
	Northglen	343	288,666	299,052	306,508	309,310	317,101	328,729	284,000	289,900	293,750	292,500	309,500	300,000
	Northwest Ajax	1,190	341,994	341,112	365,661	381,508	407,240	434,844	328,000	322,000	367,500	375,000	408,650	452,500
	Northwood	13	331,000	372,000	296,250	356,000	445,100		331,000	372,000	313,000	356,000	398,750	
	ONeill	1,255	206,059	207,254	206,917	213,086	214,107	194,172	189,950	195,000	194,000	199,000	203,500	180,000
	Orono	92	227,495	224,432	233,875	257,163	260,039		215,500	215,000	217,500	230,250	246,500	
	Pinecrest	1,108	259,385	254,562	254,083	270,235	297,362	281,296	253,000	250,750	246,000	260,000	287,000	273,500
	Port Perry	752	302,097	313,846	308,282	329,131	360,307	424,468	278,000	297,000	285,000	310,000	335,000	348,500
	Port Whitby	686	288,403	297,289	278,314	307,622	325,696	308,058	277,500	284,000	267,750	292,500	315,000	300,450
	Pringle Creek	1,895	263,273	268,614	266,507	289,001	294,295	290,902	245,750	249,450	251,000	274,750	280,000	290,000
	Raglan	20	246,967	346,000	327,380	373,625	483,500	470,000	258,000	346,000	290,000	386,000	482,000	470,000
	Rolling Acres	1,176	304,735	308,821	315,490	327,528	360,234	375,311	305,500	308,000	310,000	320,000	355,000	379,950
	Rosebank	163	481,987	399,229	492,214	518,497	513,172	548,250	470,000	372,000	436,000	430,000	490,000	477,500
	Rouge Park	96	343,265	368,074	387,408	502,775	412,400	627,450	334,450	351,944	333,250	427,000	390,000	627,450
	Rougemount	202	525,236	417,167	426,046	466,287	565,593	464,990	465,000	401,000	420,000	445,000	535,000	404,000
	Rural Brock	274	356,124	305,884	311,367	382,333	389,373	377,214	354,000	266,500	302,750	375,000	352,500	328,500
	Rural Clarington	820	379,426	345,367	370,228	414,392	413,104	337,714	334,400	330,000	347,000	378,700	374,500	305,000
	Rural Oshawa	47	520,166	378,463	446,909	545,318	553,444		475,000	302,451	435,000	515,000	543,000	
	Rural Pickering	234	494,665	526,108	524,500	458,111	575,403	478,967	458,500	436,000	500,000	415,750	465,000	446,950
	Rural Scugog	873	343,989	370,309	347,828	373,699	387,694	296,755	313,000	318,000	305,000	335,950	339,500	272,900
	Rural Uxbridge	566	484,305	472,738	510,376	532,582	575,395	439,967	440,000	418,000	465,000	502,500	557,500	386,500
	Rural Whitby	166	497,289	548,705	546,268	618,078	512,016	639,933	506,500	522,500	552,500	617,500	489,500	649,900
	Samac	1,248	251,000	243,223	236,799	261,454	267,341	269,077	242,000	238,000	234,450	249,000	256,000	250,000
	South East	1,926	280,793	293,307	295,959	312,582	327,364	331,436	270,000	274,000	279,000	294,000	305,000	317,500
	South West	883	256,036	252,184	255,602	282,565	291,593	282,145	236,000	243,000	240,000	266,500	281,000	280,000
	Stevenson	22	201,608	240,317	163,883	170,833	180,000		220,000	188,500	164,200	172,000	180,500	
	Sunderland	105	201,967	219,783	231,275	234,468	239,117	216,600	195,000	203,500	232,500	214,000	228,500	239,900
	Taunton	569	311,393	324,442	320,853	334,200	362,064	410,882	308,500	324,000	319,000	339,000	363,000	370,000
	Taunton North	720	303,088	317,107	305,169	338,414	345,847	351,909	283,500	292,639	294,500	321,500	333,000	340,000
	Town Centre	625	226,336	230,401	226,897	244,618	243,619	288,350	216,500	225,000	222,000	235,400	228,000	300,000
	Uxbridge	974	358,212	333,085	338,594	345,433	380,249	374,083	340,000	320,000	320,000	322,500	365,000	347,250
	Vanier	893	176,986	182,643	180,384	186,309	196,355	217,529	175,000	181,250	172,000	180,000	189,950	199,000
	Village East	671	224,538	232,878	235,288	242,379	255,784	255,110	220,500	224,500	232,450	238,750	251,000	232,500
	West Shore	518	270,700	302,456	291,335	315,438	333,008	256,750	269,000	287,000	290,000	307,000	325,000	222,500
	Whitby Industrial	9	220,000	298,500	327,467	398,000	279,000		220,000	298,500	287,500	398,000	279,000	
	Williamsburg	1,345	310,421	309,616	333,063	359,546	359,598	350,546	276,500	280,250	292,500	320,000	347,000	337,500
	Windfields	170	289,406	273,216	304,331	322,725	321,574	313,800	263,000	254,500	289,495	284,900	287,500	299,400
	Woodlands	188	358,494	379,304	360,141	406,041	440,727	342,083	337,000	308,000	316,700	383,000	394,000	299,250
Halton	401 Business Park	23	286,725	323,500	389,750	304,214	882,000		318,450	323,500	353,000	228,500	882,000	
	Acton	1,012	289,699	309,510	301,353	319,652	340,933	331,089	275,000	290,000	299,950	315,000	335,000	329,950
	Alton - Burlington	639	384,093	386,237	425,489	423,246	449,689	472,250	355,000	370,000	417,250	397,000	432,000	436,500
	Appleby	1,056	308,895	325,520	314,053	353,974	362,501	353,380	300,000	314,000	304,000	349,777	348,500	362,250
	Bayview	170	395,909	423,188	384,579	441,386	446,203	741,000	363,500	358,000	371,500	420,000	420,000	741,000
	Beaty	2,309	349,772	353,285	356,236	412,554	425,642	438,021	324,000	326,000	340,000	387,500	412,000	404,000
	Bowes	1					320,000						320,000	
	Brant	759	354,623	359,405	354,745	405,260	396,077	465,300	319,000	328,500	312,500	367,500	386,500	407,500
	Brant Hills	522	277,623	292,920	296,034	317,342	339,597	357,200	281,750	280,000	285,000	312,000	332,000	360,000
	Bronte East	1,011	475,323	505,587	519,872	574,945	615,223	726,614	393,625	440,000	432,000	486,000	530,000	595,000
	Bronte Meadows	507	263,031	296,609	302,624	320,934	364,120	359,667	261,500	298,500	314,500	325,000	355,000	358,000
	Bronte West	2,077	460,152	484,941	493,776	526,174	565,655	664,207	425,000	445,000	450,000	495,000	520,000	590,000
	Brookville	64	679,455	647,320	695,563	796,688	755,633	789,900	720,000	658,600	640,000	825,000	699,000	789,900
	Campbellville	94	538,130	549,150	553,225	626,173	641,846	717,333	505,000	470,000	502,500	595,000	667,500	775,000
	Clarke	1,411	332,928	340,500	349,833	381,826	403,691	452,926	315,000	324,750	332,600	359,950	375,000	450,500
	Clearview	520	415,440	442,960	453,977	520,196	539,659	588,708	445,000	479,000	490,000	531,000	567,000	646,000
	Coates	1,005	351,411	346,460	354,780	391,369	427,175	440,491	337,000	328,500	343,500	367,000	397,750	421,900
	Cobban	1					391,500						391,500	
	College Park	1,056	324,540	336,800	346,494	369,832	425,982	435,979	317,100	318,000	330,000	352,000	382,000	370,000
	Dempsey	1,180	342,861	333,959	330,986	370,353	384,690	392,046	322,000	310,500	310,000	350,000	364,950	377,000
	Derry Green Business Park	4	375,000		525,000		507,000		375,000		525,000		507,000	

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices 2007	2008	2009	2010	2011	2012 (Jan-Feb)	Median Prices 2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Dorset Park - Milton	454	316,790	295,696	302,791	348,371	330,099	367,778	336,000	318,000	336,500	365,000	350,050	406,000
	Eastlake	1,100	786,188	841,732	827,266	871,868	966,409	1,277,531	739,950	780,000	800,000	832,750	880,000	1,280,000
	Esquesing	7		626,267	548,000	1,300,000	837,500			691,900	548,000	1,300,000	837,500	
	Freeman	79	265,912	285,821	292,624	342,500	342,694	286,000	277,000	288,250	285,000	332,000	336,000	286,000
	Georgetown	3,362	350,304	360,585	358,398	405,038	430,591	426,198	327,750	340,400	339,000	380,000	418,000	388,000
	Glen Abbey	1,978	411,605	433,123	453,416	491,322	516,343	531,385	357,500	385,000	393,750	440,000	446,000	544,950
	Glen Williams	91	664,676	619,333	715,588	659,300	574,688	1,155,000	720,000	452,000	666,250	569,000	527,500	1,325,000
	Grindstone	18	640,000	410,600	671,250	517,714	373,296		640,000	405,000	675,000	480,000	473,888	
	Harrison	797	375,000	332,423	349,583	378,221	408,460	452,446	375,000	314,900	329,900	359,450	390,000	444,750
	Headon	644	314,569	314,844	308,415	347,217	368,627	292,917	308,250	290,000	275,000	320,000	327,000	282,500
	Iroquois Ridge North	1,475	572,991	583,559	634,436	689,541	733,633	735,909	505,000	546,250	579,000	645,000	679,250	700,000
	Iroquois Ridge South	752	342,669	351,625	382,357	401,592	429,334	344,711	330,000	380,000	392,500	417,500	455,500	260,000
	LaSalle	337	445,799	383,883	420,631	455,733	510,191	540,000	398,000	348,500	368,000	409,000	428,750	490,000
	Limehouse	12	228,000		396,375		469,400	451,500	228,000		380,250		422,500	451,500
	Milton Heights	25	442,000	553,333	246,333	478,571	456,708		442,000	655,000	149,500	482,500	437,500	
	Moffat	32	658,980	568,182	750,714	563,667	420,000	482,500	625,000	578,000	780,000	522,500	420,000	482,500
	Mountain View	100	336,589	359,593	339,978	355,500	379,233		315,000	350,000	325,000	348,500	359,900	
	Mountainside	294	275,296	278,505	278,751	301,685	320,135	335,500	280,000	278,000	291,000	308,750	332,500	338,000
	Nassagaweya	259	555,645	628,987	674,128	676,593	712,420		550,000	580,000	625,000	630,000	670,000	
	Nelson	75	624,775	741,867	674,100	599,914	633,500	490,000	550,000	668,000	668,000	580,000	632,500	490,000
	Old Milton	253	311,470	306,121	324,016	368,517	379,127	396,607	287,500	280,000	296,000	307,000	350,500	350,250
	Old Oakville	1,612	545,917	580,357	601,500	683,942	730,556	795,641	445,000	489,500	537,000	597,500	627,000	609,500
	Orchard	979	378,544	378,021	406,008	446,477	472,404	473,488	349,750	361,000	388,750	412,350	449,500	419,450
	Palermo West	911	408,554	458,918	536,089	577,865	616,384	595,859	365,500	412,000	512,500	523,500	569,000	573,000
	Palmer	352	275,306	268,905	277,001	297,552	306,513	320,280	260,000	269,500	288,000	316,500	291,000	363,000
	River Oaks	1,654	449,684	453,622	438,279	511,531	528,698	461,265	411,000	425,000	426,500	487,000	515,000	448,000
	Rose	718	424,945	479,070	485,279	506,454	550,568	884,389	365,000	437,000	494,500	470,000	500,000	884,389
	Roseland	457	393,975	449,178	437,369	519,317	603,662	508,000	329,900	350,750	353,000	432,000	537,000	508,000
	Rural Burlington	143	632,579	716,344	632,530	733,383	804,154	1,160,000	545,000	657,500	552,500	666,500	760,000	1,070,000
	Rural Halton Hills	520	511,628	588,220	541,653	610,351	631,513	775,000	462,500	550,000	496,500	570,000	577,500	755,000
	Rural Oakville	33	503,000	414,250	692,500	950,000	639,121	1,200,000	520,000	414,250	487,500	1,000,000	572,500	1,200,000
	Scott	584		370,194	407,414	446,494	471,578	528,772		352,500	390,000	422,000	448,000	490,500
	Shoreacres	474	393,009	383,162	400,588	432,362	448,273	588,500	331,000	322,500	355,000	383,000	365,000	588,500
	Stewarttown	29	432,214	433,125	393,536	485,125	658,550		401,000	397,000	318,000	382,750	658,550	
	Tansley	433	235,056	245,070	246,923	274,125	280,109	212,625	208,000	212,000	204,700	232,750	220,500	211,500
	Timberlea	533	322,072	321,034	327,685	362,826	395,958	385,780	305,000	310,000	316,500	358,251	389,000	384,850
	Trafalgar	89	454,914	607,269	600,750	884,562	528,821	929,333	441,250	622,500	672,500	817,000	540,500	864,500
	Tyandaga	305	458,628	559,062	554,649	539,344	598,456	1,100,000	465,000	540,000	532,500	541,000	640,000	1,100,000
	Uptown	549	254,456	271,767	279,486	290,275	303,372	354,000	264,750	283,300	287,500	307,000	325,000	354,000
	Uptown Core	823	321,543	302,245	312,451	310,853	356,833	345,625	330,000	300,000	324,500	295,400	350,500	278,500
	Walker	34		288,944	308,750	360,280	411,200			278,500	308,750	349,800	376,000	
	West Oak Trails	3,758	410,862	432,848	447,578	492,723	532,926	585,968	375,250	396,000	412,500	451,000	490,000	542,500
	Willmont	118	594,000	339,000	504,625	537,384	473,426	462,411	750,000	339,000	491,500	510,000	451,000	474,250
	Winston Park	2	312,000			617,000			312,000			617,000		
Peel	Airport Road/Hwy 7 Bus. Centre	1				460,000						460,000		
	Alton - Caledon	63	343,700	377,125	327,771	358,896	354,821	337,000	334,250	382,000	328,750	342,500	372,500	337,000
	Applewood	1,982	285,767	288,927	313,807	339,246	334,801	314,709	280,000	278,300	303,000	342,500	315,000	242,000
	Avondale	579	257,817	269,162	271,110	297,942	312,451	292,893	262,000	276,000	275,500	305,500	312,750	321,000
	Bolton East	710	355,639	372,748	373,178	409,580	424,769	440,280	338,000	367,000	365,000	405,000	415,000	460,000
	Bolton North	598	364,176	393,085	382,065	413,877	424,871	452,956	361,000	383,000	374,750	400,000	412,000	410,000
	Bolton West	814	350,600	386,410	369,587	401,506	418,588	442,040	355,000	380,000	365,000	394,000	419,375	445,000
	Bram East	2,203	412,782	425,908	448,057	469,364	503,830	508,925	402,995	410,500	430,000	458,500	485,000	447,500
	Bram West	806	433,796	435,271	453,650	495,327	491,629	436,560	385,000	394,000	413,500	453,000	454,150	363,000
	Bramalea North Industrial	212	358,747	368,141	371,101	413,284	446,524	426,750	357,000	377,500	374,625	414,625	452,000	426,750
	Bramalea Road South Gateway	1					212,000						212,000	
	Bramalea South Industrial	3		487,000		535,000	565,000			487,000		535,000	565,000	
	Bramalea West Industrial	124	191,423	200,133	192,763	220,109	248,422		184,500	190,000	185,000	196,800	228,000	
	Brampton 407 Corridor	14	339,500	312,333	299,500	357,133	382,750		339,500	323,000	299,500	348,650	382,750	
	Brampton East	855	291,462	293,369	302,362	326,013	351,955	397,635	285,450	295,000	295,500	318,500	342,250	405,750
	Brampton North	1,527	253,846	257,868	258,652	275,963	295,156	318,074	252,000	260,000	255,000	273,750	290,000	307,500
	Brampton South	763	295,646	271,104	283,257	309,571	337,141	295,083	281,500	268,500	273,250	305,000	346,800	248,500
	Brampton West	1,369	281,824	283,449	283,402	307,652	332,837	366,796	278,500	278,000	274,000	301,000	325,000	350,000
	Caledon East	176	418,456	458,626	444,125	496,044	552,688	430,600	400,000	425,000	400,000	500,000	550,000	449,000
	Caledon Village	89	469,100	483,379	414,840	500,367	529,639		472,500	475,000	415,000	508,000	547,500	
	Central Erin Mills	2,806	362,942	389,485	393,030	438,131	467,061	424,327	310,000	329,000	344,000	365,000	386,944	367,500
	Central Park	1,347	243,700	256,191	254,882	261,711	279,770	308,755	219,000	233,550	228,000	235,000	251,000	295,000
	Cheltenham	31	744,250	502,750	407,455	501,333	345,000	675,000	744,250	518,500	419,000	430,000	305,000	675,000
	Churchill Meadows	4,130	390,528	400,354	418,114	443,274	471,759	468,603	360,000	375,000	392,000	419,500	445,000	456,000
	City Centre	5,190	217,655	229,876	237,143	259,196	271,675	282,342	205,000	219,000	225,000	243,000	255,000	269,450
	Claireville Conservation	3	940,000			815,000			940,000			815,000		
	Clarkson	2,112	350,461	344,196	375,610	409,248	427,362	428,469	297,000	305,000	323,000	344,500	367,500	380,000
	Cooksville	2,942	289,780	291,964	306,384	332,836	347,948	378,961	251,500	260,000	279,000	298,000	311,000	285,000
	Credit Valley	744	434,598	358,219	377,378	397,196	436,754	533,159	326,250	327,000	363,000	363,750	391,000	485,750
	Creditview	818	327,753	338,112	336,764	364,700	424,940	415,143	330,500	340,000	347,500	365,000	429,500	437,500
	Dixie	71	290,583	264,250	269,818	262,500	386,700	515,000	346,750	309,000	150,000	141,000	413,000	515,000
	Downtown Brampton	720	290,702	296,663	292,277	319,321	324,887	312,065	265,000	274,000	269,750	291,990	300,000	278,000
	East Credit	4,061	398,914	401,356	419,367	463,996	499,117	529,575	379,000	384,500	401,000	442,250	482,750	488,944
	Erin Mills	3,090	368,654	373,981	381,059	432,106	452,186	451,444	330,000	340,000	345,000	397,000	419,000	373,500
	Erindale	1,691	326,301	328,906	389,436	393,150	444,764	449,088	303,000	302,500	339,500	345,000	379,700	386,250
	Fairview	1,030	294,358	298,704	294,403	316,324	357,886	546,333	235,000	253,000	252,900	261,500	281,000	425,000
	Fletchers Creek South	1,825	294,772	293,939	298,246	313,220	334,768	348,436	287,000	285,250	290,000	309,050	325,000	329,900
	Fletchers Creek Village	904	307,724	314,267	317,554	336,997	367,859	361,733	295,000	304,500	305,000	324,000	355,000	359,000
	Fletchers Meadow	5,512	325,960	335,861	338,266	366,829	386,842	402,965	320,000	329,250	331,500	358,700	373,500	399,450
	Fletchers West	1,340	304,205	314,048	312,486	345,359	366,929	411,124	300,000	305,000	310,000	342,000	370,500	380,000
	Gore Industrial North	217	345,373	357,251	352,321	395,664	397,428	453,150	325,000	340,500	337,000	376,000	385,000	439,300
	Goreway Drive Corridor	123	252,438	224,900	240,097	213,763	210,637	325,000	177,750	226,250	237,200	215,000	218,000	214,000
	Heart Lake	17			1,025,000		336,821	430,667			1,025,000		318,500	369,000
	Heart Lake East	763	296,640	300,043	313,396	338,181	355,103	384,115	282,000	287,000	291,000	320,000	337,000	365,000
	Heart Lake West	1,261	295,209	304,119	308,851	332,329	360,608	355,170	281,500	295,000	287,000	315,500	346,000	340,500

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices						Median Prices					
			2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Highway 427	3						720,000						720,000
	Hurontario	5,325	299,598	313,226	321,486	341,725	364,546	377,579	284,000	302,000	311,500	322,900	348,500	384,000
	Huttonville	13	535,000	692,750		510,167	672,489		535,000	740,500		521,500	642,500	
	Inglewood	53	560,143	707,667	556,625	535,667	697,530	578,333	492,000	635,000	580,500	535,000	700,000	470,000
	Lakeview - Mississauga	1,652	345,990	370,376	394,427	419,820	439,646	475,315	325,000	360,000	370,000	381,000	414,850	430,000
	Lisgar	2,786	361,334	373,985	382,007	422,427	446,368	466,408	342,900	353,000	366,250	400,700	429,500	443,000
	Lorne Park	1,031	707,275	723,858	737,054	824,432	863,073	904,229	670,000	731,000	725,000	790,000	830,000	830,000
	Madoc	2,105	269,653	276,541	283,901	311,802	325,034	319,580	265,000	270,101	275,000	301,000	317,500	322,000
	Malton	2,117	261,207	266,873	265,100	294,348	304,053	312,113	266,500	274,000	272,250	300,000	316,750	329,000
	Mavis-Erindale	4					366,167	1,300,000					293,000	1,300,000
	Meadowvale	3,271	281,745	291,025	290,849	312,795	350,529	351,884	285,000	296,300	295,900	318,000	356,500	345,000
	Meadowvale Business Park	55	244,492	242,700	253,900	275,833	290,333		227,000	229,000	239,000	257,500	273,750	
	Meadowvale Village	2,685	376,419	401,141	410,217	449,967	480,450	531,860	343,000	368,000	370,000	410,250	440,000	462,000
	Mineola	782	608,599	604,523	602,796	725,614	717,663	738,822	550,000	480,500	529,000	583,000	620,000	623,000
	Mississauga Valleys	1,981	233,562	232,351	253,237	257,538	279,803	296,569	210,000	208,500	226,000	229,750	254,000	243,750
	Mono Mills	32	378,200	328,333	344,100	377,000	393,267		346,000	330,000	325,500	387,000	419,900	
	Northeast	109	239,005	232,253	215,652	255,948	223,760		277,500	218,126	130,000	317,000	151,500	
	Northgate	1,216	263,653	265,486	269,399	290,773	306,969	348,082	248,500	245,000	262,000	277,500	290,000	312,500
	Northwest Brampton	54	473,000	524,667	423,857	383,750	433,651	439,983	460,000	620,000	420,000	383,750	399,000	406,450
	Northwest Sandalwood Parkway	1,026	310,407	325,448	332,828	364,363	393,820	387,639	296,750	318,000	334,000	357,000	400,000	399,250
	Northwood Park	750	307,432	304,692	310,913	338,598	360,481	389,200	302,000	305,000	303,000	335,000	355,000	380,000
	Palgrave	235	595,474	688,541	664,761	660,282	702,914	865,375	609,900	652,500	659,000	640,000	668,500	827,500
	Parkway Belt Industrial Area	2	560,000			500,000			560,000			500,000		
	Port Credit	696	470,200	558,663	490,651	569,469	602,831	527,500	392,000	520,000	440,000	551,000	533,000	550,000
	Queen Street Corridor	1,526	169,016	165,392	170,849	178,819	194,389	194,100	159,000	154,000	160,500	165,250	184,500	186,650
	Rathwood	1,573	334,957	343,051	348,716	381,340	418,780	366,600	305,000	325,000	323,000	345,000	384,500	311,900
	Rural Caledon	1,296	540,152	549,723	545,563	609,012	610,703	700,614	495,000	528,500	510,000	577,250	575,000	615,000
	Sandringham-Wellington	5,685	330,368	344,671	354,947	386,039	415,663	405,875	315,000	329,000	341,000	370,000	399,950	389,500
	Sandringham-Wellington North	13			490,000	310,000	455,833	432,333			490,000	310,000	469,500	425,000
	Sheridan	969	465,769	408,136	487,742	521,885	541,703	702,781	424,500	355,000	445,500	487,500	468,500	580,500
	Sheridan Park	1					442,000						442,000	
	Snelgrove	805	386,732	412,256	418,814	446,487	475,100	472,856	375,000	389,500	397,500	440,000	454,500	470,000
	Southdown	1	485,000						485,000					
	Southgate	1,058	234,665	233,774	232,192	248,236	267,972	279,703	248,200	250,500	247,500	256,500	279,000	300,000
	Streetsville	943	336,231	354,997	359,141	380,125	437,879	415,391	320,400	348,000	315,000	351,000	425,000	380,000
	Toronto Gore Rural Estate	113	726,194	790,964	767,565	885,205	886,778	943,333	799,000	832,500	793,450	840,000	927,500	1,100,000
	Vales of Castlemore	891	430,633	454,839	458,519	495,024	526,979	559,000	410,000	441,250	439,507	492,600	520,000	571,000
	Vales of Castlemore North	413	495,642	514,689	513,112	579,163	608,753	628,750	462,000	499,500	508,000	562,000	590,000	650,500
	Westgate	782	355,836	349,968	359,640	375,752	406,113	429,536	342,750	346,000	355,000	373,750	405,000	384,750
Toronto	Agincourt North	1,880	284,483	286,546	301,144	334,553	374,752	348,711	281,500	281,900	305,000	338,000	382,500	312,000
	Agincourt South-Malvern West	1,457	288,144	279,723	282,061	335,665	346,264	326,438	291,000	245,000	270,000	344,900	303,000	284,500
	Alderwood	826	379,198	377,975	401,840	443,506	485,291	586,438	372,000	375,000	387,000	430,250	465,000	549,000
	Annex	2,012	638,019	651,618	601,175	692,242	779,584	952,430	569,000	575,000	532,000	600,000	695,000	881,000
	Banbury-Don Mills	2,207	458,730	464,703	475,052	530,561	536,556	644,069	390,000	390,000	390,000	380,000	390,250	392,000
	Bathurst Manor	815	428,141	464,260	475,925	507,171	513,569	559,305	460,000	465,300	480,000	516,250	538,500	592,000
	Bay Street Corridor	2,980	316,085	338,360	365,017	395,337	432,670	496,439	290,000	313,000	332,500	369,500	399,000	446,800
	Bayview Village	2,175	394,044	413,226	412,633	480,277	525,408	549,005	272,250	291,500	321,000	355,000	375,000	352,000
	Bayview Woods-Steeles	594	570,407	576,301	599,860	648,958	755,596	742,396	570,000	580,000	586,500	600,000	745,750	712,540
	Bedford Park-Nortown	1,690	836,591	814,827	836,588	896,351	979,478	1,180,941	807,000	792,500	793,000	835,000	950,000	1,120,000
	Beechborough-Greenbrook	207	325,300	334,000	347,407	399,445	394,940	309,800	309,000	322,250	329,000	347,000	376,000	365,000
	Bendale	2,453	262,107	272,153	285,163	296,432	316,432	322,111	260,800	270,000	282,000	290,000	314,000	315,000
	Birchcliffe-Cliffside	1,768	398,219	417,112	411,837	448,743	497,189	449,907	335,000	361,000	355,000	384,863	440,000	401,000
	Black Creek	595	271,126	273,040	291,652	293,329	316,570	297,278	289,700	288,000	293,000	314,500	325,000	276,500
	Blake-Jones	551	394,250	423,686	458,310	483,378	573,286	560,750	395,000	399,000	445,000	483,000	592,872	513,750
	Briar Hill-Belgravia	913	292,696	304,501	307,567	319,997	350,449	362,100	299,950	305,000	310,000	334,000	350,000	385,000
	Bridle Path-Sunnybrook-York Mills	890	696,727	682,913	802,090	991,515	874,136	937,500	625,000	590,000	705,950	1,000,000	830,000	1,050,000
	Broadview North	454	437,420	423,154	451,153	465,632	477,739	448,960	420,000	392,450	425,000	425,000	475,250	454,880
	Brookhaven-Amesbury	664	298,158	280,071	321,348	332,366	344,852	290,033	320,000	290,500	332,000	365,000	370,000	243,750
	Cabbagetown-South St. James Tow	1,096	437,068	424,815	396,300	467,438	540,716	648,188	330,000	312,450	311,750	342,000	389,500	647,000
	Caledonia-Fairbank	681	313,756	319,352	333,422	362,928	375,577	383,308	300,000	303,250	325,000	355,000	359,000	350,000
	Casa Loma	608	759,096	771,986	766,155	710,935	820,100	1,219,150	744,500	739,000	730,000	580,000	757,500	1,192,000
	Centennial Scarborough	774	394,000	391,231	409,087	436,538	464,110	417,929	370,000	371,250	390,000	412,000	440,000	422,500
	Church-Yonge Corridor	3,438	322,347	344,582	354,764	370,819	405,421	416,835	285,000	309,900	319,450	339,000	373,500	350,000
	Clairlea-Birchmount	1,343	305,727	319,532	335,242	351,071	367,914	373,266	294,000	314,000	322,500	340,000	360,000	353,875
	Clanton Park	802	485,096	483,663	453,862	522,635	598,461	591,460	453,850	440,000	440,000	490,000	550,000	585,000
	Cliffcrest	863	417,589	409,377	397,662	473,455	495,827	416,600	355,500	339,000	352,000	416,278	434,500	378,000
	Corso Italia-Davenport	782	366,327	395,486	426,710	462,307	482,777	415,333	330,250	362,000	381,000	422,000	446,000	420,500
	Crescent Town	715	264,311	248,934	261,216	265,352	263,976	220,407	269,750	269,000	281,000	273,750	241,250	147,650
	Danforth	630	450,485	452,592	472,774	517,689	555,933	575,754	440,000	435,000	466,000	506,000	539,500	520,500
	Danforth Village-East York	1,340	388,046	399,732	425,649	457,962	490,049	547,332	375,000	392,000	410,000	436,201	479,000	525,000
	Don Valley Village	1,402	360,929	360,683	352,912	393,154	474,414	438,265	347,500	311,000	298,750	325,500	437,000	403,500
	Dorset Park - Toronto	1,889	239,950	236,246	244,269	253,989	285,841	254,885	237,000	236,000	243,800	252,900	284,750	210,000
	Dovercourt-Wallace Emerson-Junc	2,121	376,852	395,920	400,780	440,828	484,729	489,916	365,000	390,000	387,000	431,861	465,000	476,250
	Downsview-Roding-CFB	1,330	327,660	329,559	324,352	365,975	387,004	417,672	329,500	327,950	325,000	365,000	381,000	413,000
	Dufferin Grove	666	369,569	394,986	401,577	457,516	436,931	555,000	323,605	335,500	379,500	395,000	381,750	498,500
	East End-Danforth	1,577	401,432	430,657	443,116	480,514	517,518	548,921	385,500	407,700	425,000	458,000	484,000	489,700
	East York	578	448,831	436,577	494,728	506,360	538,701	575,731	395,000	400,550	443,000	465,000	497,000	500,000
	Edenbridge-Humber Valley	674	637,728	685,570	671,113	814,101	817,638	661,191	590,000	721,500	720,000	870,000	849,500	485,000
	Eglinton East	939	246,252	220,620	252,531	264,092	282,729	240,835	269,000	190,000	251,000	242,000	293,000	194,500
	Elms-Old Rexdale	528	261,476	270,591	264,915	321,829	340,701	221,400	277,000	288,250	270,000	325,000	343,000	173,700
	Englemount-Lawrence	803	459,084	472,468	483,059	511,758	553,474	592,703	418,000	427,500	440,000	510,000	494,800	522,500
	Eringate-Centennial-West Deane	1,188	353,743	332,254	338,994	384,570	416,018	475,746	381,000	362,000	378,000	415,000	442,000	500,000
	Etobicoke West Mall	642	269,888	232,696	254,389	276,598	313,792	251,208	198,000	172,000	187,900	202,500	218,000	205,000
	Flemingdon Park	1,315	184,016	182,890	185,951	202,901	204,688	184,876	156,750	158,000	165,000	178,000	182,000	169,000
	Forest Hill North	438	726,216	650,618	634,127	904,567	860,992	677,875	765,777	660,000	608,000	1,055,000	941,000	653,000
	Forest Hill South	683	740,555	606,060	676,364	797,827	739,424	841,488	745,000	492,000	620,000	667,500	556,000	675,000
	Glenfield-Jane Heights	1,130	281,802	269,019	289,767	287,057	320,024	331,485	303,200	299,450	305,000	320,000	340,000	370,000
	Greenwood-Coxwell	1,346	351,220	371,738	386,072	430,116	472,711	505,663	349,000	368,000	385,000	425,000	456,300	519,500
	Guildwood	720	339,898	369,422	355,221	376,349	432,566	554,241	335,000	353,750	351,750	359,000	417,000	461,000

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices						Median Prices					
			2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Henry Farm	539	278,750	262,604	287,118	311,716	319,585	465,860	174,500	174,500	219,250	183,000	269,000	355,000
	High Park North	906	530,535	509,403	502,951	563,915	621,184	626,575	553,000	511,110	469,000	560,000	638,500	610,500
	High Park-Swansea	1,715	519,424	506,949	514,139	575,190	578,808	573,046	511,000	459,000	449,250	526,000	490,650	475,000
	Highland Creek	535	395,663	389,092	430,338	471,296	497,229	538,892	371,000	364,000	400,551	439,000	480,000	470,000
	Hillcrest Village	1,352	363,142	388,159	372,267	417,088	465,456	515,706	337,000	340,000	348,000	368,000	433,300	422,500
	Humber Heights	557	372,448	377,173	373,791	399,559	416,617	528,654	332,500	333,000	327,450	355,000	387,700	623,000
	Humber Summit	530	303,659	289,150	300,767	321,483	330,595	277,889	302,200	308,000	303,000	334,000	345,000	279,000
	Humberlea-Pelmo Park W4	245	372,100	391,102	377,366	411,806	420,981	480,800	351,500	359,500	351,000	390,000	403,500	480,800
	Humberlea-Pelmo Park W5	260	314,430	296,717	316,296	353,339	403,798	389,667	308,000	309,000	320,500	371,500	421,000	390,000
	Humbermede	581	302,717	314,093	312,355	310,896	346,936	336,546	295,000	297,500	296,000	320,000	341,250	334,000
	Humewood-Cedarvale	522	609,685	652,004	623,471	718,734	758,005	641,250	559,500	599,000	635,000	650,000	700,500	568,750
	Ionview	520	282,790	298,006	286,461	318,119	322,425	350,875	284,250	289,000	295,000	333,500	332,500	340,250
	Islington-City Centre West	3,623	409,622	390,324	402,620	422,187	456,190	507,995	356,200	315,000	315,000	331,000	365,000	380,500
	Junction Area	876	412,488	429,950	465,265	521,743	484,365	446,993	375,000	400,500	430,000	475,000	440,000	426,000
	Keelesdale-Eglinton West	869	289,923	284,190	292,997	316,191	346,786	278,417	285,000	280,000	300,000	310,000	345,000	295,000
	Kennedy Park	1,085	235,081	239,583	250,189	267,493	278,190	275,170	246,000	230,000	257,000	275,000	286,500	287,250
	Kensington-Chinatown	1,041	366,861	371,811	391,707	444,016	440,928	327,590	336,800	321,500	345,000	378,000	387,500	310,950
	Kingsview Village-The Westway	1,188	346,911	314,042	374,786	402,090	437,229	393,099	345,000	323,000	400,000	420,000	445,000	424,888
	Kingsway South	698	741,699	782,240	779,040	848,789	870,056	839,682	700,000	776,221	782,000	845,000	815,000	745,000
	Lambton Baby Point	438	564,460	586,997	647,612	636,541	734,102	475,050	523,000	537,500	625,000	621,000	725,000	475,050
	LAmoreaux	2,732	289,667	279,612	298,145	330,570	336,426	349,058	256,000	244,900	253,250	285,400	295,000	281,000
	Lansing-Westgate	1,641	449,700	423,546	480,861	518,705	596,378	624,142	325,000	335,000	386,000	406,500	465,000	465,000
	Lawrence Park North	1,412	675,449	628,018	666,248	816,235	906,281	896,653	663,500	625,000	670,000	790,500	840,000	812,000
	Lawrence Park South	1,066	796,748	755,379	721,272	875,458	959,167	1,038,254	761,659	750,800	720,000	850,000	900,000	980,000
	Leaside	1,242	741,090	767,331	793,396	837,190	886,254	796,492	685,000	769,000	750,000	790,000	860,000	739,000
	Little Portugal	559	452,533	454,354	479,689	531,589	561,724	549,533	441,000	419,500	460,000	509,000	541,000	475,000
	Long Branch	782	384,492	376,078	384,985	437,983	450,725	542,293	357,000	354,950	364,000	418,000	439,500	558,000
	Malvern	3,113	225,930	227,772	228,933	252,125	259,481	261,105	232,000	235,000	227,500	255,000	260,250	243,000
	Maple Leaf	268	426,620	439,024	446,322	459,000	495,778	509,378	398,250	412,500	410,500	450,000	465,000	470,000
	Markland Wood	717	416,464	383,583	397,134	434,130	466,484	420,833	350,000	317,000	342,250	319,900	385,000	305,500
	Milliken	1,823	291,056	283,018	299,597	335,285	384,059	357,981	295,000	279,000	288,500	338,500	382,500	308,750
	Mimico	3,726	358,672	362,554	374,047	412,389	433,097	404,508	323,000	334,950	335,000	376,000	395,000	339,500
	Morningside	1,066	257,253	247,093	266,413	280,334	293,801	272,446	266,500	256,500	280,250	299,000	306,000	204,500
	Moss Park	1,929	370,982	360,911	382,339	395,723	437,823	454,629	316,500	315,000	325,000	357,000	392,800	395,000
	Mount Dennis	780	237,797	234,544	247,984	270,309	271,245	231,154	241,000	236,250	250,000	265,000	270,900	200,000
	Mount Olive-Silverstone-Jamestow	1,703	199,443	198,142	198,341	221,025	236,940	232,083	155,000	156,500	155,500	168,000	173,000	170,500
	Mount Pleasant East	1,371	646,039	652,680	670,386	749,203	816,830	866,391	607,000	625,000	640,000	690,000	750,500	904,051
	Mount Pleasant West	2,277	425,405	416,292	427,722	498,700	501,976	478,236	348,000	350,100	375,000	418,000	427,000	419,000
	New Toronto	816	361,205	365,396	363,339	405,298	406,544	338,050	338,750	354,150	365,000	389,000	394,000	348,000
	Newtonbrook East	1,884	428,659	414,897	470,091	474,588	580,293	590,007	302,000	287,500	457,850	378,000	552,000	435,000
	Newtonbrook West	2,057	394,960	407,950	408,443	473,921	541,404	567,250	394,500	399,000	375,000	445,000	523,000	594,500
	Niagara	5,642	317,330	334,044	337,792	371,004	387,496	412,092	288,100	308,000	316,000	340,000	355,500	395,750
	North Riverdale	703	580,124	648,602	635,973	692,534	787,269	826,714	561,500	635,000	623,000	655,000	740,000	815,000
	North St. James Town	404	457,944	492,953	435,022	446,154	434,438	424,344	408,500	432,885	381,740	398,500	409,600	430,000
	Oakridge	475	266,712	269,694	295,214	315,346	323,502	285,417	257,500	250,000	289,000	296,000	315,000	281,500
	Oakwood-Vaughan	1,271	364,246	386,643	394,546	412,471	447,817	466,750	345,000	360,500	370,000	379,500	430,000	429,500
	OConnor-Parkview	784	387,265	388,866	418,515	438,243	514,289	569,727	355,000	357,000	400,000	415,000	460,000	526,500
	Palmerston-Little Italy	671	611,019	580,116	572,222	636,406	749,254	724,917	577,000	539,000	551,500	613,000	720,000	709,000
	Parkwoods-Donalda	1,293	413,744	386,931	388,669	432,112	487,438	480,221	370,100	353,000	353,500	388,000	411,000	394,000
	Playter Estates-Danforth	363	611,591	671,203	637,500	752,276	765,688	931,725	600,000	651,000	662,000	725,000	711,000	967,450
	Pleasant View	973	344,192	343,657	339,745	362,135	444,257	412,338	355,000	359,000	367,500	391,400	457,900	414,150
	Princess-Rosethorn	669	734,868	727,608	746,055	842,197	917,506	931,000	710,000	706,500	735,000	761,200	830,000	769,500
	Regent Park	251	448,743	386,993	388,411	397,114	441,374	401,380	435,500	378,500	381,950	356,100	410,880	356,000
	Rexdale-Kipling	418	316,411	321,414	319,175	353,119	368,252	377,000	315,000	311,500	314,950	344,500	369,500	382,000
	Rockcliffe-Smythe	1,453	281,250	288,233	305,303	326,984	336,322	329,015	273,000	284,000	296,020	320,500	323,850	335,000
	Roncesvalles	934	476,522	473,601	480,797	527,815	563,717	651,944	470,000	474,000	450,000	515,000	560,100	695,000
	Rosedale-Moore Park	1,820	639,596	610,856	620,577	712,236	801,408	957,440	531,500	529,000	525,000	595,000	700,000	858,000
	Rouge E10	580	359,679	365,852	394,173	431,627	456,022	459,275	343,000	348,000	375,100	397,000	430,000	419,500
	Rouge E11	2,215	331,096	324,726	341,368	372,256	396,959	365,543	341,450	340,000	349,000	380,000	414,000	358,500
	Runnymede-Bloor West Village	804	521,196	549,074	565,298	604,041	648,666	591,375	510,811	535,000	545,000	615,000	622,500	545,000
	Rustic	195	420,754	409,653	445,052	437,981	469,189	479,000	415,000	415,000	425,500	437,500	460,000	479,000
	Scarborough Village	779	312,681	273,424	292,703	301,964	361,483	368,278	241,500	186,500	218,500	213,450	310,000	365,000
	South Parkdale	590	384,536	416,426	444,220	500,142	487,093	317,500	324,900	344,900	393,000	433,500	394,000	317,500
	South Riverdale	2,462	400,915	430,368	449,338	469,528	505,281	516,990	392,850	422,750	443,750	456,000	495,000	502,000
	St. Andrew-Windfields	1,338	742,311	716,351	769,348	833,854	912,160	827,899	687,500	675,000	733,700	739,000	817,000	680,000
	Steeles	1,677	334,773	329,761	338,838	370,607	432,517	418,242	325,000	315,000	307,500	328,500	407,000	425,000
	Stonegate-Queensway	1,765	537,458	548,036	559,574	609,069	661,754	651,121	500,000	493,500	515,250	582,000	620,000	540,000
	Tam OShanter-Sullivan	1,413	332,332	313,481	331,901	366,048	401,037	328,663	332,000	308,500	325,000	369,500	385,000	316,400
	The Beaches	2,065	589,471	582,277	621,506	722,466	725,895	757,373	572,000	545,000	575,051	690,000	685,000	697,500
	Thistletown-Beaumonde Heights	453	326,279	346,913	360,871	349,604	394,225	513,600	312,700	329,000	335,000	343,500	375,000	435,000
	Thorncliffe Park	302	241,596	249,831	265,490	270,504	287,169	255,297	211,000	225,000	239,950	243,900	256,000	240,594
	Trinity-Bellwoods	953	502,842	540,928	561,374	590,603	640,661	699,390	488,000	517,000	535,000	585,000	600,000	760,000
	University	317	679,761	582,377	681,792	727,610	694,442	634,167	675,000	540,000	671,500	715,000	705,000	597,000
	Victoria Village	821	293,639	267,046	278,829	318,986	346,078	406,185	243,000	225,000	224,000	248,750	259,499	407,000
	Waterfront Communities C1	8,630	335,800	353,021	360,139	377,549	410,057	415,668	295,500	313,000	330,000	346,000	365,000	359,500
	Waterfront Communities C8	1,001	282,625	325,063	357,970	396,208	397,248	410,340	269,664	301,000	335,700	360,000	372,000	399,900
	West Hill	1,543	263,888	265,089	269,276	299,735	304,906	382,020	265,000	255,000	275,000	305,000	310,000	352,500
	West Humber-Clairville	2,083	278,102	274,356	282,680	291,855	310,464	294,812	292,000	285,000	292,250	290,700	320,000	271,000
	Westminster-Branson	1,336	318,440	307,041	308,511	332,883	357,842	406,441	275,000	276,000	270,000	290,000	310,000	314,000
	Weston	1,154	266,433	260,146	266,952	280,888	305,651	282,416	252,000	241,500	259,900	245,500	293,000	232,000
	Weston-Pellam Park	824	287,409	290,553	296,868	338,657	366,516	372,362	280,000	287,500	290,000	328,000	370,000	365,000
	Wexford-Maryvale	1,345	315,026	323,594	339,110	373,275	407,503	451,263	318,000	328,750	336,500	370,000	405,000	410,000
	Willowdale East	8,347	370,322	368,052	407,343	463,843	503,802	554,024	292,000	310,000	326,000	375,000	395,000	420,000
	Willowdale West	2,052	407,490	390,758	431,311	463,719	491,349	568,274	328,000	317,000	364,000	378,000	390,000	425,000
	Willowridge-Martingrove-Richview	830	439,609	433,867	428,131	485,579	502,567	512,127	407,000	420,000	425,000	455,000	495,000	505,000
	Woburn	3,500	245,988	245,821	262,034	287,102	308,269	304,685	245,000	234,250	255,000	278,125	311,000	274,450
	Woodbine Corridor	1,001	391,561	423,533	424,807	483,659	496,392	500,544	389,000	410,000	418,750	475,000	475,000	475,000
	Woodbine-Lumsden	836	325,794	356,439	366,115	389,688	403,775	501,482	320,000	345,000	353,000	371,000	384,000	486,000
	Wychwood	636	505,105	511,949	510,861	541,828	619,335	716,150	450,000	485,000	484,000	525,000	579,000	677,500

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices						Median Prices					
			2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Yonge-Eglinton	593	775,184	773,936	786,731	813,669	843,277	1,017,600	759,125	708,500	728,500	746,000	829,900	938,000
	Yonge-St. Clair	987	658,348	694,045	686,496	822,102	836,271	679,077	581,000	532,500	632,125	750,000	772,300	595,000
	York University Heights	1,190	298,778	270,207	311,004	375,404	374,679	316,513	310,000	240,000	300,000	365,000	355,500	323,000
	Yorkdale-Glen Park	638	387,826	362,292	406,441	436,264	471,618	505,750	380,000	340,000	391,000	419,000	469,500	552,750
York	Aileen-Willowbrook	1,025	351,227	374,593	368,045	414,287	425,222	404,063	297,694	333,000	323,000	348,000	359,850	360,000
	Angus Glen	300	484,486	546,555	570,775	695,359	769,021	953,100	450,150	487,500	490,000	564,950	621,000	929,000
	Armitage	294	368,931	358,873	352,666	391,429	415,489	503,349	390,750	381,000	367,000	427,500	457,500	514,950
	Aurora Estates	231	664,300	691,272	724,489	843,285	825,748	1,005,250	567,500	577,000	637,000	675,000	732,500	841,250
	Aurora Grove	312	340,456	340,457	353,366	381,644	389,908	408,533	327,000	335,000	344,000	371,500	379,000	402,600
	Aurora Heights	437	367,022	353,260	369,805	399,884	433,808	530,625	365,000	350,000	360,500	380,000	421,350	565,000
	Aurora Highlands	1,101	422,865	450,776	423,569	464,486	521,529	620,899	405,000	430,000	398,950	450,000	488,750	615,500
	Aurora Village	553	390,387	408,181	392,149	405,487	451,226	488,244	345,000	365,000	359,400	380,500	425,000	454,900
	Baldwin	204	320,838	329,618	318,350	333,963	365,200	355,167	296,500	316,500	300,000	327,500	325,000	362,500
	Ballantrae	267	540,927	542,134	579,905	591,551	592,228	724,788	468,000	468,000	506,000	504,950	526,250	711,000
	Bayview Fairway-Bayview Country	252	465,317	377,957	510,666	515,897	507,773	526,005	377,000	358,500	461,000	436,200	450,500	467,000
	Bayview Glen	159	866,818	787,824	934,723	980,069	1,231,222	1,315,400	833,500	680,000	910,500	902,000	1,200,000	1,315,400
	Bayview Hill	666	850,085	884,804	906,294	1,089,108	1,247,594	1,402,286	807,500	845,900	869,000	1,051,500	1,235,993	1,388,000
	Bayview Northeast	633	368,328	389,958	412,983	470,175	528,712	605,455	350,000	368,250	378,250	465,000	530,000	597,000
	Bayview Southeast	45	936,625		1,296,000	1,116,250	1,071,169	900,000	886,500		1,270,000	1,095,000	1,200,000	900,000
	Bayview Wellington	944	337,455	344,072	339,492	377,839	397,360	435,050	313,750	326,000	315,000	355,000	365,000	390,500
	Beaver Creek Business Park	216	255,316	264,178	288,030	282,017	318,331	305,250	248,500	257,000	278,300	293,000	310,250	296,500
	Belhaven	65	431,409	376,468	427,500	303,296	478,742	525,000	302,000	390,000	425,000	263,000	409,000	525,000
	Berczy	1,433	405,111	429,658	455,845	508,080	560,203	557,453	388,000	420,888	450,000	465,000	530,000	531,000
	Beverley Glen	1,013	402,349	416,615	435,896	449,349	489,641	548,242	314,900	353,350	337,000	344,000	375,000	384,250
	Box Grove	488	452,948	469,172	485,210	533,978	596,861	617,413	457,250	475,000	475,000	547,000	597,000	640,000
	Bristol-London	778	300,199	316,679	305,784	342,045	369,337	369,969	314,000	325,500	309,000	355,000	377,000	398,000
	Brownridge	1,267	386,587	398,464	394,256	442,899	468,508	474,983	412,000	430,000	413,000	465,000	478,500	508,250
	Bullock	273	391,646	389,820	416,814	471,114	511,177	530,600	376,000	379,625	412,900	462,000	499,500	549,000
	Buttonville	320	505,762	499,308	553,856	580,509	681,048	828,084	503,000	492,000	562,500	598,050	698,000	828,084
	Cachet	693	598,846	583,781	653,531	711,560	777,565	1,046,667	618,000	563,000	637,940	691,500	770,000	1,055,000
	Cathedraltown	204	492,119	525,900	486,836	576,971	625,415	627,286	473,950	465,000	469,495	540,000	575,000	585,000
	Cedar Grove	24		590,000	593,250	502,500	497,200			590,000	590,000	423,500	462,000	
	Cedarwood	304	352,783	358,740	372,833	439,211	473,968	523,240	333,200	350,500	367,000	406,000	445,000	489,500
	Central Newmarket	1,023	276,928	288,994	281,294	299,505	336,928	366,576	275,000	272,000	278,000	295,000	323,250	387,000
	Commerce Valley	1,168	254,157	265,829	285,386	310,148	323,255	342,235	236,800	243,800	268,880	279,500	286,750	325,000
	Concord	153	394,960	417,898	406,562	519,177	542,407	422,500	388,000	410,000	406,500	488,000	558,000	422,500
	Cornell	1,527	343,896	357,696	367,359	407,324	438,599	482,481	329,990	344,000	355,000	395,000	425,000	471,000
	Crestwood-Springfarm-Yorkhill	1,770	386,349	409,830	397,963	452,807	494,656	562,540	350,000	357,500	348,000	420,000	440,000	520,000
	Crosby	967	327,722	335,981	349,072	381,779	439,304	478,318	333,000	336,500	360,000	380,050	450,000	511,000
	Devils Elbow	113	1,060,516	981,571	979,768	1,203,300	1,267,651		999,500	933,000	1,014,050	1,290,000	1,280,000	
	Devonsleigh	743	447,983	441,993	464,739	498,909	552,544	540,117	456,000	472,000	477,500	518,500	580,000	501,000
	Doncrest	677	525,567	484,484	542,350	636,529	653,823	735,829	560,000	545,750	592,000	678,000	733,000	785,000
	East Woodbridge	1,376	475,818	522,643	486,355	565,240	580,555	610,916	429,000	458,400	425,000	519,500	536,000	589,900
	Elder Mills	132	463,660	493,870	460,586	524,948	566,211	544,000	467,750	500,000	446,550	514,000	541,500	555,000
	Georgina Island	14			187,750	270,000	267,000				187,750	280,000	275,000	
	German Mills	384	400,638	424,720	412,763	494,286	573,410	458,650	377,500	390,250	365,000	452,000	492,000	400,000
	Glen Shields	308	386,479	391,448	385,301	411,015	473,116	496,167	383,000	377,000	372,250	402,500	451,625	481,000
	Glenway Estates	274	449,218	447,122	459,013	517,960	519,396	590,643	459,000	440,000	438,000	506,375	524,300	557,000
	Gorham-College Manor	938	328,692	320,366	319,188	353,231	390,653	373,886	328,250	318,000	313,500	348,000	374,000	348,500
	Grandview	261	605,208	623,934	636,930	761,689	772,377	802,600	494,500	545,100	562,500	659,000	693,000	820,000
	Greensborough	1,345	376,022	372,972	390,909	437,543	465,022	553,419	365,000	360,000	390,000	429,500	458,500	565,000
	Harding	1,023	304,454	313,254	326,397	350,908	404,186	385,701	256,000	255,500	285,000	315,500	359,500	318,000
	Headford Business Park	3					939,267						925,000	
	Hills of St Andrew	217	624,838	752,773	683,146	695,118	804,302	861,500	630,000	810,500	719,250	643,115	894,061	861,500
	Historic Lakeshore Communities	712	272,376	277,056	270,156	318,624	302,628	339,033	236,000	240,000	245,000	259,000	264,250	364,000
	Holland Landing	486	345,144	347,277	334,897	368,284	394,002	359,000	327,000	352,450	320,000	370,000	382,500	390,000
	Huron Heights-Leslie Valley	568	316,431	308,886	319,689	344,762	366,253	392,700	311,750	302,000	320,000	334,000	345,000	429,000
	Islington Woods	444	594,133	608,939	590,881	659,043	773,362	679,100	650,000	633,500	636,500	693,500	763,000	840,000
	Jefferson	1,282	478,519	506,411	533,301	569,172	642,608	633,979	481,344	505,000	526,900	579,500	635,000	603,500
	Keswick North	914	260,742	276,015	264,586	288,235	292,041	354,983	260,000	275,000	261,000	279,900	292,000	325,000
	Keswick South	1,463	244,798	250,630	251,450	263,154	275,798	270,130	235,500	241,000	244,450	257,000	269,000	274,000
	King City	308	667,438	703,409	632,551	651,763	790,365	913,700	667,500	643,000	585,000	570,000	795,000	902,500
	Kleinburg	275	831,987	841,385	696,913	879,496	998,867		850,000	800,000	725,500	843,750	1,100,000	
	Lakeview Estates	497	373,296	347,270	379,043	357,800	378,343	411,000	364,500	357,000	355,000	334,500	353,000	410,000
	Langstaff	2,423	338,078	339,761	346,953	387,371	445,861	464,060	315,000	280,000	283,000	313,000	347,950	287,438
	Langstaff South	2			545,000	680,000					545,000	680,000		
	Legacy	184	471,250	501,642	509,063	603,914	613,578	597,350	474,500	491,750	495,500	580,000	591,750	597,350
	Maple	2,486	396,897	408,279	411,715	451,615	463,858	488,013	387,000	407,000	405,000	447,500	460,000	513,000
	Markham Village	733	406,598	428,935	441,253	502,444	531,764	619,392	403,500	419,250	430,000	496,000	538,950	589,000
	Markville	611	419,661	433,865	461,249	522,523	573,110	495,461	430,000	430,000	462,500	575,000	598,000	422,000
	Middlefield	1,208	371,658	390,837	397,200	444,332	503,545	503,115	367,000	386,000	395,000	447,900	501,000	512,000
	Mill Pond	806	446,400	494,390	506,904	546,459	640,736	743,512	430,000	456,000	525,000	555,000	649,000	721,000
	Milliken Mills East	1,407	405,849	426,129	423,728	484,558	527,415	473,313	368,000	389,000	392,000	460,000	490,000	403,150
	Milliken Mills West	480	390,802	408,481	419,408	466,933	517,444	511,400	383,000	395,000	419,500	432,000	496,000	505,000
	Mt Albert	409	309,881	321,861	301,645	311,264	341,322	333,810	294,500	313,500	290,000	298,000	320,750	327,600
	Newmarket Industrial Park	8	298,667				580,000	825,000	269,000				640,000	825,000
	Nobleton	199	585,819	595,250	551,611	607,207	690,252	621,917	597,250	602,500	592,000	555,000	689,000	621,500
	North Richvale	1,399	375,466	379,199	400,471	431,395	527,451	527,488	358,000	361,000	372,100	408,000	450,000	450,000
	Oak Ridges	1,592	444,321	466,120	475,907	525,229	590,522	635,258	436,000	445,000	445,000	509,500	561,650	634,000
	Oak Ridges Lake Wilcox	1,310	457,030	463,862	462,825	510,042	564,076	616,567	426,800	437,500	430,000	476,000	534,500	545,000
	Observatory	709	331,935	327,356	376,605	417,473	448,570	347,580	304,750	295,000	321,000	346,000	355,000	300,000
	Old Markham Village	236	351,542	376,916	361,738	429,592	438,495	464,000	333,500	347,000	331,500	417,500	415,000	442,000
	Patterson	3,595	463,223	497,171	513,604	574,411	640,155	701,875	430,000	466,750	485,000	535,000	602,500	660,000
	Pefferlaw	330	280,559	250,471	258,278	267,531	286,344	400,245	243,500	224,750	242,500	248,000	268,300	390,000
	Pottageville	120	567,814	614,333	507,568	550,561	565,002		525,000	520,000	448,500	530,000	510,000	
	Queensville	46	420,793	372,500	425,667	526,300	513,333	505,500	431,450	396,500	338,500	492,000	487,500	505,500
	Raymerville	540	385,485	401,765	405,923	448,793	503,554	570,813	385,500	400,250	406,000	460,250	504,000	621,500
	Rouge Fairways	138	529,734	476,059	551,981	626,588	648,109	640,000	465,000	488,500	520,900	631,500	633,000	640,000
	Rouge River Estates	156	416,035	468,607	469,221	543,996	528,410	667,500	390,000	397,000	446,000	495,000	485,000	667,500

Exhibit 1C
Average & Median Sale Price, by Community

Area	Community	# of Sales Jan 07-Feb 12	Mean Prices						Median Prices					
			2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Rouge Woods	1,621	446,905	475,145	492,917	548,736	633,224	637,141	448,500	479,000	480,000	549,500	650,000	638,500
	Royal Orchard	730	382,778	390,121	409,043	463,063	480,433	596,813	322,500	383,000	425,000	480,000	372,500	439,000
	Rural East Gwillimbury	311	478,538	494,340	460,998	574,422	549,685	558,225	419,500	485,000	415,000	519,500	468,750	642,450
	Rural King	498	638,913	662,943	699,982	711,767	745,041	763,460	598,500	597,500	675,000	700,000	694,500	865,000
	Rural Markham	78	512,758	641,150	797,256	636,686	643,359	649,000	485,000	542,500	762,500	540,200	526,500	649,000
	Rural Richmond Hill	107	749,194	748,000	833,250	894,626	1,024,540	1,220,000	650,000	617,500	745,000	715,000	979,000	1,220,000
	Rural Vaughan	460	470,602	499,438	596,600	550,060	691,509	940,938	363,200	380,000	475,000	462,500	551,400	765,000
	Rural Whitchurch-Stouffville	764	646,903	637,700	628,679	749,050	782,089	906,749	585,750	595,000	600,000	735,000	757,500	822,000
	Schomberg	136	392,000	385,659	352,600	426,400	460,199	465,983	370,500	400,000	348,750	390,500	473,250	465,500
	Sharon	197	504,594	556,188	513,098	553,849	588,481	678,056	535,000	537,500	530,000	555,000	567,500	695,000
	Sherwood-Amberglen	202	438,744	427,780	469,007	473,107	521,008	605,600	458,625	426,000	452,000	450,000	531,550	630,000
	Sonoma Heights	1,003	437,163	447,962	457,839	493,304	547,440	578,429	422,000	426,000	447,500	496,500	537,500	533,500
	South Richvale	472	695,855	729,513	765,726	830,510	920,218	1,012,400	633,250	661,000	700,000	750,000	900,000	903,000
	Steeles West Industrial	3		257,500	323,500					257,500	323,500			
	Stonehaven-Wyndham	893	457,185	467,388	462,100	482,958	555,508	535,385	465,000	433,250	453,625	425,000	575,000	425,000
	Stouffville	1,878	366,801	368,295	386,692	410,117	449,106	514,133	352,500	361,500	378,000	397,000	430,000	480,000
	Summerhill Estates	1,242	331,790	334,220	346,495	376,292	399,148	424,648	315,000	318,000	330,000	358,000	377,500	385,000
	Sutton & Jacksons Point	610	258,396	244,870	278,759	262,412	262,551	253,941	225,000	213,000	225,000	230,500	227,000	214,000
	Thornhill	468	433,683	374,591	497,719	472,879	557,413	618,057	382,500	260,500	469,000	380,000	466,000	531,501
	Thornlea	270	574,802	622,752	624,886	737,844	821,958	837,000	550,000	588,200	638,500	700,000	775,000	843,500
	Unionville	2,554	510,458	526,950	457,603	523,917	534,994	499,627	515,650	528,000	411,000	472,500	422,900	400,000
	Uplands	382	640,150	624,904	639,662	741,297	889,449	975,709	582,500	587,500	595,000	669,500	862,500	846,000
	Vaughan Grove	86	400,550	396,545	441,207	459,179	399,607	399,000	402,500	371,000	480,950	502,500	379,358	315,000
	Vellore Village	3,338	418,581	434,294	447,364	499,622	555,234	586,709	399,450	411,000	420,990	470,000	515,000	536,500
	Victoria Manor-Jennings Gate	251	504,530	509,200	513,461	653,616	686,177	718,000	482,000	460,000	498,200	623,000	635,100	718,000
	Victoria Square	84	472,778	765,417	608,444	553,724	666,681	692,398	420,000	632,750	601,000	514,000	590,000	626,500
	Village Green-South Unionville	605	422,707	400,773	439,604	522,297	569,830	677,845	368,250	365,000	405,500	435,000	485,000	559,500
	Vinegar Hill	122	383,691	386,400	371,591	392,707	454,792	586,500	311,000	317,500	333,100	352,000	412,500	586,500
	Virginia	215	293,516	290,856	360,148	318,254	320,938	430,000	227,450	215,000	238,500	208,000	213,500	430,000
	West Woodbridge	949	406,252	404,155	391,623	427,054	463,691	450,737	414,000	412,500	395,500	425,000	470,000	427,000
	West Woodbridge Industrial Area	3	319,500			248,900	295,000		319,500			248,900	295,000	
	Westbrook	1,195	477,794	495,518	502,312	555,353	612,002	671,188	476,900	499,000	500,000	560,000	615,000	691,500
	Wismer	1,198	395,871	413,988	444,283	492,426	547,060	576,832	375,000	399,700	435,000	480,000	518,500	541,800
	Woodland Hill	909	332,280	345,059	345,443	382,902	427,476	465,600	317,250	323,500	333,000	358,000	414,000	457,000

Source: MLS Data; sold transactions.

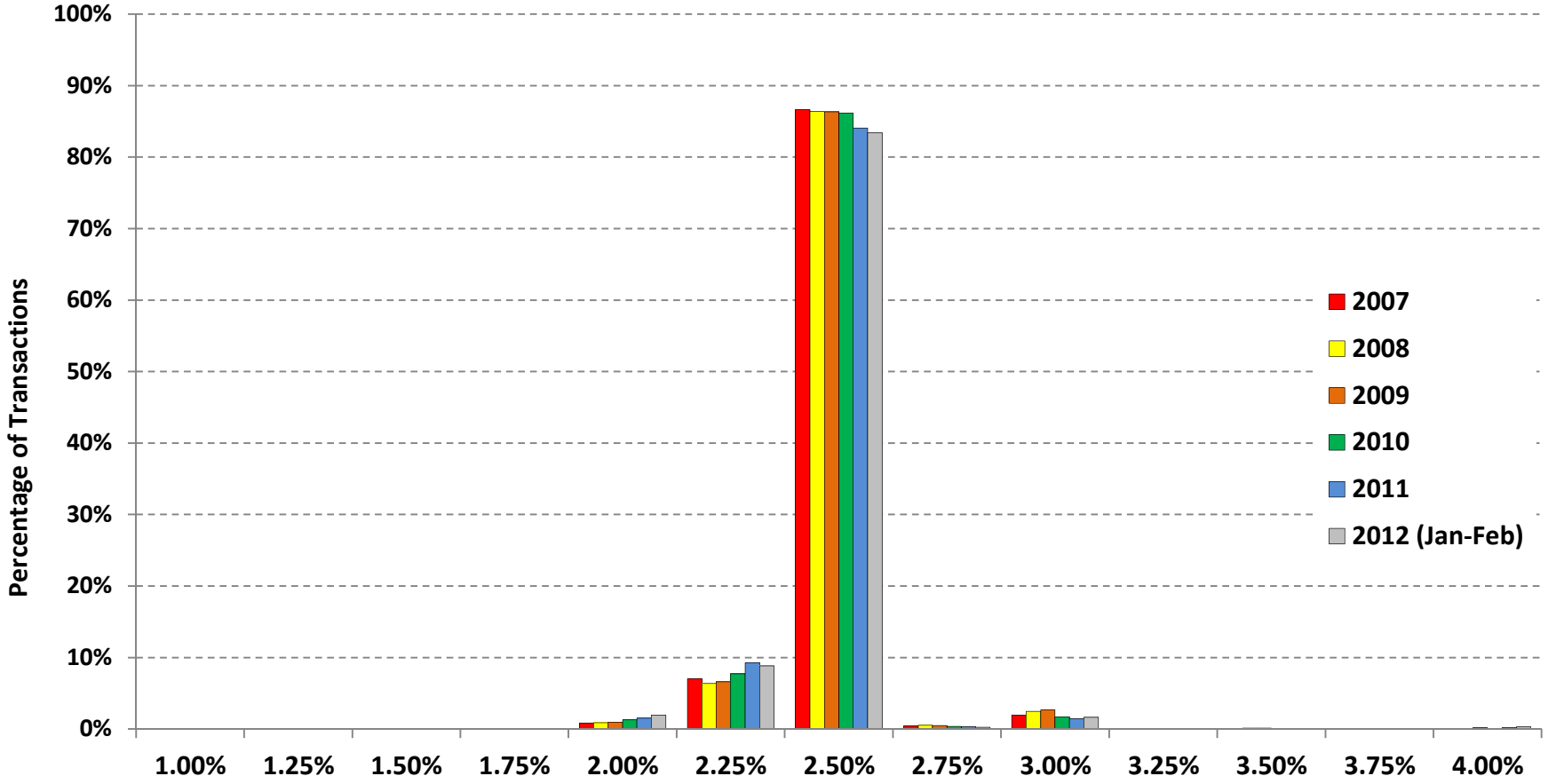
Notes

Records in the top and bottom 1% (by year) of the price distribution were excluded.

Analysis based on communities, as identified in the MLS dataset.

Prices are in nominal terms.

Exhibit 2a
Distribution of Buy-Side Percentage Commission in the Greater Toronto Area
2007-2012



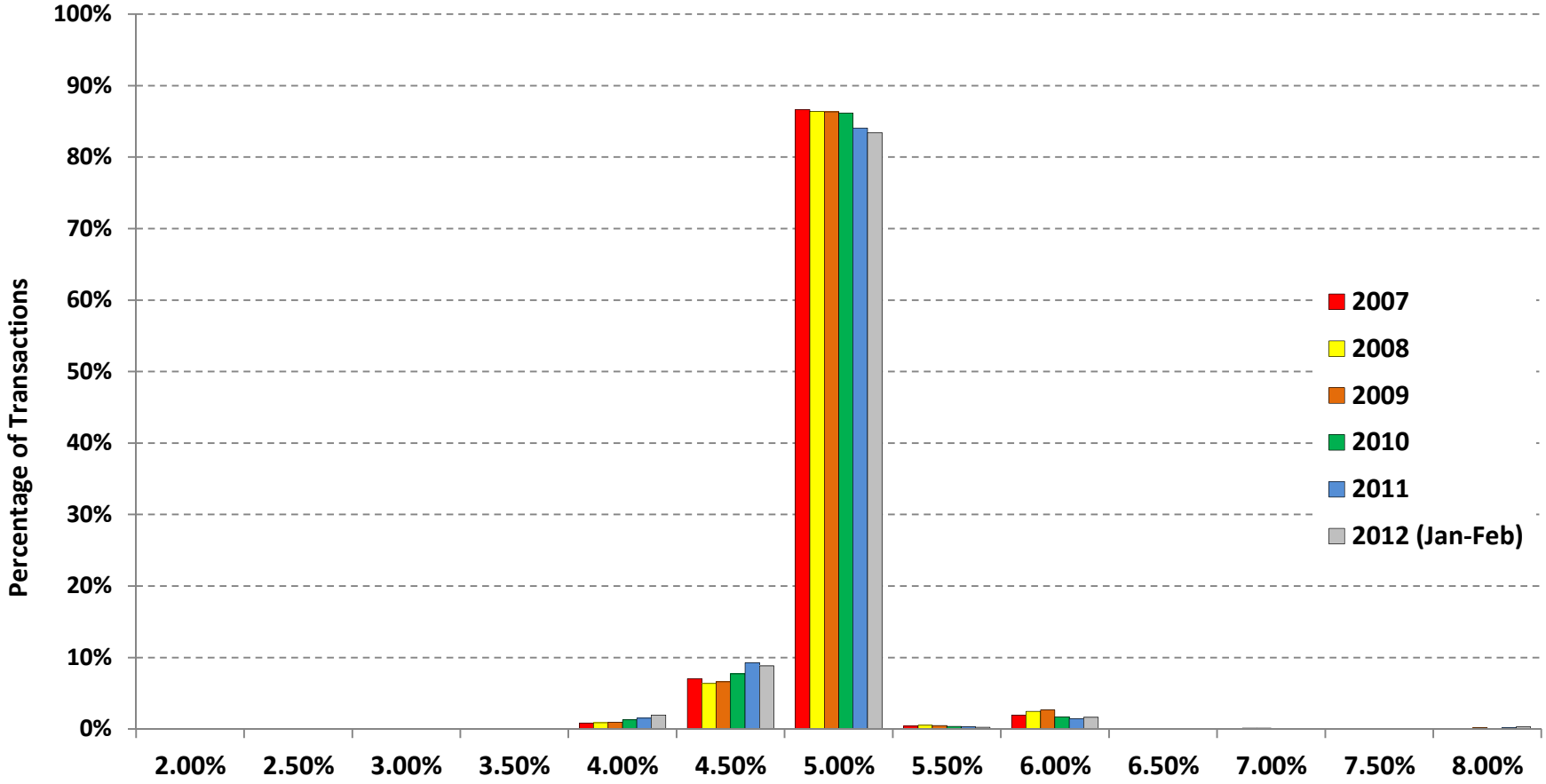
Source: MLS data; sold transactions.

Notes: Buy-side commissions based on MLS data showing buy-side commission offers.

For each percentage shown on the horizontal axis, the height of the bar represents the share of sales with a commission within 0.05% of that percentage. For instance, the bars at 2.50% represent commissions between 2.45% and 2.55%. Commissions not shown in the chart, which represent approximately 3% of all transactions, are used when calculating the shares shown in the chart.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 2b
Distribution of Estimated Overall Percentage Commission in the Greater Toronto Area 2007-2012



Source: MLS data; sold transactions.

Notes: Overall commission is based on the assumption that the overall commission is split equally between the sell-side and buy-side agents. Buy-side commissions based on MLS data showing buy-side commission offers.

For each percentage shown on the horizontal axis, the height of the bar represents the share of sales with a commission within 0.1% of that percentage. For instance,the bars at 5% represent commissions between 4.9% and 5.1%. Commissions not shown in the chart, which represent approximately 3% of all transactions, are used when calculating the shares shown in the chart.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 2c
Average Commission, by Area

Average Buy-Side Commission:

Year	Durham	Halton	Peel	Toronto	York	GTA
2007	$6,898	$9,948	$8,252	$9,702	$10,128	$9,172
2008	$6,959	$10,142	$8,468	$9,628	$10,403	$9,227
2009	$7,126	$10,616	$8,780	$10,116	$10,759	$9,681
2010	$7,633	$11,477	$9,441	$11,040	$11,780	$10,487
2011	$7,971	$12,214	$10,037	$11,794	$12,809	$11,239
2012 (Jan-Feb)	$7,895	$12,995	$10,191	$11,996	$13,373	$11,405

Average Estimated Overall Commission*:

Year	Durham	Halton	Peel	Toronto	York	GTA
2007	$13,796	$19,896	$16,504	$19,403	$20,256	$18,345
2008	$13,917	$20,283	$16,936	$19,257	$20,806	$18,454
2009	$14,252	$21,232	$17,560	$20,232	$21,517	$19,362
2010	$15,267	$22,955	$18,883	$22,079	$23,560	$20,973
2011	$15,941	$24,429	$20,073	$23,588	$25,618	$22,479
2012 (Jan-Feb)	$15,790	$25,990	$20,382	$23,992	$26,745	$22,811

Source: MLS Data; sold transactions.

Notes

* Overall commission is based on the assumption that the commission is split equally between the sell-side and buy-side agents.

Buy-side commissions based on MLS data showing buy-side commission offers.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
Durham	Amberlea	983	8,309	8,421	8,833	9,602	9,866	10,242
	Bay Ridges	600	6,579	6,726	7,088	7,590	7,638	7,728
	Beaverton	370	6,148	5,628	6,134	6,015	6,269	5,368
	Blackstock	68	6,221	6,921	5,877	6,590	7,095	5,671
	Blue Grass Meadows	961	7,174	7,351	7,333	8,053	8,357	8,020
	Bowmanville	3,971	5,562	5,654	5,853	6,131	6,439	6,482
	Brock Industrial	2				9,125	7,475	
	Brock Ridge	537	7,558	8,076	8,212	8,769	9,273	9,057
	Brooklin	1,732	7,934	8,214	8,430	9,029	9,437	10,432
	Cannington	214	5,537	5,643	5,424	6,306	5,722	4,435
	Centennial	1,074	5,717	5,459	5,629	5,907	6,193	6,159
	Central - Ajax	1,660	6,606	6,580	6,597	7,155	7,549	7,851
	Central - Oshawa	1,043	4,512	4,357	4,587	4,613	4,906	4,751
	Central East	275	8,562	8,326	8,259	9,096	8,429	9,013
	Central West	1,685	7,431	7,859	7,575	8,515	8,776	9,416
	Columbus	22	10,769	9,585	11,444	14,371	12,463	
	Courtice	2,286	6,166	6,555	6,305	6,750	7,074	6,953
	Donevan	1,067	5,474	5,400	5,389	5,772	5,705	5,818
	Downtown Whitby	951	6,301	6,222	6,359	6,584	6,764	7,593
	Duffin Heights	6					8,063	9,994
	Dunbarton	178	12,107	11,980	11,990	12,837	14,436	15,375
	Eastdale	1,044	5,692	5,927	5,683	6,059	6,180	7,416
	Farewell	94	4,976	4,918	4,621	5,050	5,428	4,888
	Highbush	505	9,007	8,174	9,752	10,178	11,077	11,780
	Kedron	82	8,107	8,519	8,353	9,614	10,250	8,863
	Lakeview - Oshawa	1,328	4,507	4,464	4,401	4,794	5,022	4,685
	Liverpool	1,256	7,660	7,476	8,158	8,632	8,926	9,880
	Lynde Creek	776	7,620	7,633	7,069	8,330	9,027	8,112
	McLaughlin	868	5,854	5,652	5,543	6,052	6,313	6,334
	Newcastle	734	6,567	6,425	6,441	7,131	7,417	7,695
	Northeast Ajax	1,011	8,252	8,642	8,763	9,802	9,818	9,783
	Northglen	343	7,099	7,214	6,681	6,752	7,253	5,571
	Northwest Ajax	1,190	8,556	8,490	9,099	9,421	10,116	10,818
	Northwood	13	8,275	9,300	7,406	8,900	11,128	
	ONeill	1,255	5,165	5,189	5,188	5,309	5,312	4,854
	Orono	92	5,742	5,639	5,805	6,459	6,501	
	Pinecrest	1,108	6,415	6,268	6,365	6,708	7,367	6,853
	Port Perry	752	7,584	7,904	7,683	8,168	9,014	10,669
	Port Whitby	686	7,223	7,431	6,987	7,705	8,187	7,701
	Pringle Creek	1,895	6,598	6,746	6,711	7,167	7,364	7,312
	Raglan	20	6,174	8,650	8,606	9,341	12,088	11,750
	Rolling Acres	1,176	7,606	7,766	7,924	8,209	8,982	9,358
	Rosebank	163	12,053	9,981	12,322	12,962	12,803	13,706
	Rouge Park	96	8,077	9,028	10,331	12,557	10,261	15,686
	Rougemount	202	13,165	10,691	10,631	11,266	14,028	11,625
	Rural Brock	274	8,854	7,584	7,773	9,449	9,536	9,924
	Rural Clarington	820	9,431	8,615	9,201	10,270	10,208	8,659
	Rural Oshawa	47	12,540	9,412	11,173	13,758	13,826	
	Rural Pickering	234	12,477	13,081	13,116	11,449	14,231	11,974
	Rural Scugog	873	8,592	9,248	8,665	9,357	9,581	7,419
	Rural Uxbridge	566	12,028	11,809	12,764	13,312	14,335	10,961
	Rural Whitby	166	12,366	13,610	13,808	15,360	12,924	15,998
	Samac	1,248	6,272	6,055	5,953	6,540	6,637	6,522
	South East	1,926	7,057	7,374	7,402	7,796	8,135	7,962
	South West	883	6,401	6,311	6,377	7,066	7,254	7,082
	Stevenson	22	5,040	5,652	4,035	4,271	4,500	
	Sunderland	105	5,049	5,495	5,782	5,862	5,461	5,015
	Taunton	569	7,824	8,179	7,908	8,330	9,054	10,272
	Taunton North	720	7,621	7,952	7,704	8,427	8,441	8,789
	Town Centre	625	5,668	5,790	5,690	6,100	6,085	7,209
	Uxbridge	974	8,968	8,289	8,461	8,598	9,262	8,765
	Vanier	893	4,423	4,564	4,514	4,656	4,908	5,071
	Village East	671	5,590	5,856	5,919	6,026	6,352	6,077
	West Shore	518	6,752	7,639	7,295	7,937	8,299	6,654
	Whitby Industrial	9	5,500	7,463	8,187	9,950	6,975	
	Williamsburg	1,345	7,788	7,718	8,300	8,972	8,921	8,335

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Windfields	170	7,352	7,097	7,938	8,142	7,816	7,845
	Woodlands	188	9,106	9,382	8,890	10,043	10,930	8,552
Halton	401 Business Park	23	7,168	8,088	9,706	7,605	22,050	
	Acton	1,012	7,270	7,767	7,531	8,004	8,499	8,105
	Alton - Burlington	639	9,597	9,688	10,607	10,446	10,974	11,376
	Appleby	1,056	7,647	8,035	7,802	8,770	8,763	8,770
	Bayview	170	9,898	10,580	9,506	10,782	11,292	18,525
	Beaty	2,309	8,752	8,828	8,918	10,282	10,525	11,084
	Bowes	1					8,000	
	Brant	759	8,801	8,983	8,893	9,871	9,649	7,725
	Brant Hills	522	6,831	7,152	7,477	7,844	8,197	7,225
	Bronte East	1,011	11,902	12,637	13,033	14,375	15,239	18,680
	Bronte Meadows	507	6,576	7,416	7,571	7,967	9,096	8,967
	Bronte West	2,077	11,618	12,200	12,291	13,137	13,970	16,213
	Brookville	64	17,309	16,183	17,389	19,917	18,871	19,748
	Campbellville	94	13,406	13,729	13,742	15,627	15,932	13,259
	Clarke	1,411	8,287	8,553	8,768	9,422	9,958	11,290
	Clearview	520	10,445	11,063	11,311	13,085	13,462	14,718
	Coates	1,005	8,819	8,634	8,893	9,727	10,430	10,936
	Cobban	1					9,788	
	College Park	1,056	8,148	8,430	8,695	9,253	10,605	10,899
	Dempsey	1,180	8,606	8,435	8,277	9,212	9,325	9,720
	Derry Green Business Park	4	9,375		13,125		15,210	
	Dorset Park - Milton	454	7,961	7,385	7,573	8,703	8,119	9,178
	Eastlake	1,100	19,752	21,135	20,723	21,645	24,089	31,198
	Esquesing	7		15,657	13,700	32,500	20,938	
	Freeman	79	6,601	7,135	7,326	8,438	8,567	5,720
	Georgetown	3,362	8,751	9,045	8,963	10,131	10,650	10,655
	Glen Abbey	1,978	10,302	10,831	11,381	12,272	12,774	13,292
	Glen Williams	91	16,617	15,833	17,890	16,603	14,367	28,875
	Grindstone	18	16,000	9,432	16,781	12,943	9,121	
	Harrison	797	9,375	8,241	8,741	9,418	10,130	10,823
	Headon	644	7,767	7,886	7,682	8,587	8,827	5,786
	Iroquois Ridge North	1,475	14,353	14,619	15,924	17,344	18,059	18,386
	Iroquois Ridge South	752	8,599	8,852	9,591	10,103	10,684	8,618
	LaSalle	337	10,858	9,527	10,521	11,352	12,624	13,500
	Limehouse	12	5,700		9,909		11,735	11,288
	Milton Heights	25	11,050	13,833	6,158	11,921	11,194	
	Moffat	32	16,475	14,205	18,768	14,092	10,500	12,063
	Mountain View	100	8,388	8,719	8,374	8,888	9,559	
	Mountainside	294	6,795	6,942	6,901	7,392	7,894	8,388
	Nassagaweya	259	14,043	15,644	16,908	16,759	17,461	
	Nelson	75	15,619	18,547	16,853	14,998	15,838	12,100
	Old Milton	253	7,826	7,675	8,099	9,200	9,536	9,833
	Old Oakville	1,612	13,585	14,454	15,151	17,093	18,271	19,891
	Orchard	979	9,283	9,335	9,957	11,031	11,583	11,568
	Palermo West	911	10,250	11,391	13,400	14,424	15,430	14,896
	Palmer	352	6,849	6,708	6,899	7,451	7,513	7,725
	River Oaks	1,654	11,292	11,338	10,987	12,785	13,129	11,456
	Rose	718	10,469	11,985	12,217	12,579	13,314	18,775
	Roseland	457	9,674	10,905	10,814	12,871	14,778	12,700
	Rural Burlington	143	15,814	17,721	15,938	18,335	19,714	29,000
	Rural Halton Hills	520	12,806	14,821	13,625	14,885	15,136	19,375
	Rural Oakville	33	13,442	10,356	15,396	25,188	15,978	30,000
	Scott	584		9,286	10,133	11,177	11,604	12,967
	Shoreacres	474	9,751	9,206	10,023	10,673	10,564	14,713
	Stewarttown	29	10,805	10,828	9,700	12,128	16,464	
	Tansley	433	5,679	6,088	6,182	6,745	6,716	5,316
	Timberlea	533	8,094	7,998	8,210	9,021	9,859	9,630
	Trafalgar	89	11,475	15,182	15,019	21,991	13,221	23,233
	Tyandaga	305	11,042	13,829	13,832	13,523	14,662	27,500
	Uptown	549	6,001	6,632	6,784	7,159	7,380	8,850
	Uptown Core	823	8,031	7,587	7,813	7,811	8,971	8,910
	Walker	34		7,364	7,644	9,007	9,725	
	West Oak Trails	3,758	10,287	10,836	11,198	12,276	13,235	14,460
	Willmont	118	14,850	8,475	12,603	13,239	11,681	11,443

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Winston Park	2	7,800			15,425		
Peel	Airport Road/Hwy 7 Bus. Centre	1				11,450		
	Alton - Caledon	63	8,593	9,428	8,088	8,972	8,871	8,425
	Applewood	1,982	7,165	7,254	7,845	8,452	8,352	7,874
	Avondale	579	6,443	6,794	6,801	7,436	7,822	7,312
	Bolton East	710	8,867	9,326	9,330	10,205	10,549	11,007
	Bolton North	598	9,103	9,848	9,504	10,405	10,486	11,099
	Bolton West	814	8,330	9,615	9,213	10,001	10,383	11,051
	Bram East	2,203	10,309	10,647	11,247	11,713	12,524	12,438
	Bram West	806	10,918	11,071	11,296	12,366	12,253	11,075
	Bramalea North Industrial	212	8,950	9,256	9,396	10,335	11,133	10,669
	Bramalea Road South Gateway	1					6,360	
	Bramalea South Industrial	3		14,175		13,375	14,125	
	Bramalea West Industrial	124	4,788	5,051	4,843	5,681	6,164	
	Brampton 407 Corridor	14	8,488	7,750	7,388	9,205	9,569	
	Brampton East	855	7,280	7,382	7,645	8,119	8,691	9,448
	Brampton North	1,527	6,353	6,431	6,475	6,848	7,393	7,824
	Brampton South	763	7,436	6,779	7,102	7,720	8,366	6,877
	Brampton West	1,369	7,059	7,075	7,091	7,649	8,264	9,116
	Caledon East	176	10,589	11,400	10,893	11,984	13,075	6,050
	Caledon Village	89	11,405	11,743	10,371	12,509	13,059	
	Central Erin Mills	2,806	9,112	9,728	9,795	10,926	11,615	10,608
	Central Park	1,347	6,048	6,421	6,425	6,570	6,965	7,711
	Cheltenham	31	18,606	12,569	10,186	12,533	8,625	16,875
	Churchill Meadows	4,130	9,712	10,059	10,431	11,047	11,747	11,490
	City Centre	5,190	5,462	5,780	5,959	6,469	6,792	7,218
	Claireville Conservation	3	23,500			18,938		
	Clarkson	2,112	8,745	8,642	9,409	10,229	10,663	9,847
	Cooksville	2,942	7,282	7,272	7,653	8,296	8,629	9,488
	Credit Valley	744	10,779	9,054	9,460	9,897	10,836	13,297
	Creditview	818	8,184	8,472	8,413	9,119	10,528	10,614
	Dixie	71	7,265	6,606	7,001	7,007	9,658	12,875
	Downtown Brampton	720	7,292	7,438	7,323	7,997	8,318	8,093
	East Credit	4,061	9,980	10,042	10,494	11,573	12,372	12,953
	Erin Mills	3,090	9,213	9,414	9,542	10,797	11,237	11,285
	Erindale	1,691	8,175	8,246	9,700	9,869	11,121	11,210
	Fairview	1,030	7,400	7,454	7,546	7,893	8,959	10,883
	Fletchers Creek South	1,825	7,364	7,321	7,430	7,775	8,335	8,687
	Fletchers Creek Village	904	7,697	7,873	7,960	8,340	9,112	9,018
	Fletchers Meadow	5,512	8,094	8,425	8,444	9,191	9,622	9,883
	Fletchers West	1,340	7,617	7,842	7,798	8,654	9,106	10,272
	Gore Industrial North	217	8,702	8,869	8,769	9,751	9,803	11,304
	Goreway Drive Corridor	123	6,311	5,655	5,994	5,488	5,330	8,953
	Heart Lake	17			25,625		8,412	10,118
	Heart Lake East	763	7,422	7,529	7,876	8,483	8,851	9,599
	Heart Lake West	1,261	7,367	7,625	7,734	8,301	8,916	8,758
	Highway 427	3						18,000
	Hurontario	5,325	7,498	7,874	8,089	8,511	9,065	9,432
	Huttonville	13	13,375	17,319		12,754	16,812	
	Inglewood	53	13,829	17,692	13,916	13,392	17,438	14,067
	Lakeview - Mississauga	1,652	8,661	9,264	9,859	10,465	10,843	11,609
	Lisgar	2,786	8,999	9,402	9,543	10,551	11,126	11,566
	Lorne Park	1,031	17,667	17,940	18,456	20,617	21,421	22,453
	Madoc	2,105	6,785	6,900	7,108	7,778	8,065	7,966
	Malton	2,117	6,534	6,698	6,663	7,330	7,526	7,798
	Mavis-Erindale	4					9,154	32,500
	Meadowvale	3,271	7,046	7,287	7,302	7,803	8,711	8,723
	Meadowvale Business Park	55	6,091	5,943	6,295	6,896	7,258	
	Meadowvale Village	2,685	9,371	10,061	10,258	11,194	11,826	13,206
	Mineola	782	15,208	15,103	15,115	18,052	17,792	18,466
	Mississauga Valleys	1,981	5,868	5,864	6,358	6,427	6,981	7,456
	Mono Mills	32	9,455	8,208	8,752	9,425	9,832	
	Northeast	109	5,862	5,881	5,279	6,365	5,735	
	Northgate	1,216	6,579	6,656	6,739	7,245	7,649	8,672
	Northwest Brampton	54	11,825	13,117	10,876	9,594	10,966	10,720
	Northwest Sandalwood Parkway	1,026	7,793	8,145	8,324	9,121	9,767	8,890

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Northwood Park	750	7,735	7,613	7,774	8,488	8,948	9,768
	Palgrave	235	14,862	17,442	16,712	16,278	17,540	21,958
	Parkway Belt Industrial Area	2	14,000			12,250		
	Port Credit	696	11,755	13,934	12,324	14,303	15,062	13,184
	Queen Street Corridor	1,526	4,244	4,150	4,303	4,487	4,857	4,842
	Rathwood	1,573	8,377	8,583	8,682	9,545	10,332	9,161
	Rural Caledon	1,296	13,439	13,673	13,671	15,156	15,065	17,183
	Sandringham-Wellington	5,685	8,265	8,634	8,859	9,593	10,360	10,058
	Sandringham-Wellington North	13			12,583	7,750	11,160	10,100
	Sheridan	969	11,655	10,253	12,194	13,124	13,573	17,570
	Sheridan Park	1					11,050	
	Snelgrove	805	9,684	10,455	10,615	11,178	11,861	11,821
	Southdown	1	12,125					
	Southgate	1,058	5,850	5,890	5,824	6,136	6,705	7,020
	Streetsville	943	8,403	8,907	9,023	9,515	10,878	10,299
	Toronto Gore Rural Estate	113	17,837	20,344	19,462	21,476	19,428	21,717
	Vales of Castlemore	891	10,802	11,493	11,537	12,235	13,125	13,970
	Vales of Castlemore North	413	12,398	12,930	12,691	14,546	15,125	15,396
	Westgate	782	8,950	8,836	9,060	9,381	10,054	10,646
Toronto	Agincourt North	1,880	6,653	6,714	7,079	7,789	8,661	8,059
	Agincourt South-Malvern West	1,457	6,867	6,690	6,750	7,983	8,303	7,946
	Alderwood	826	9,389	9,509	10,059	10,955	11,949	14,661
	Annex	2,012	15,906	16,242	15,044	17,408	19,372	23,537
	Banbury-Don Mills	2,207	11,465	11,629	11,925	13,333	13,308	15,949
	Bathurst Manor	815	10,618	11,836	11,858	12,543	12,665	13,595
	Bay Street Corridor	2,980	8,009	8,368	9,238	10,135	12,123	13,049
	Bayview Village	2,175	9,604	10,232	10,335	12,057	12,927	13,635
	Bayview Woods-Steeles	594	14,005	14,106	14,806	15,934	18,106	18,524
	Bedford Park-Nortown	1,690	20,800	20,351	20,929	22,399	24,131	29,361
	Beechborough-Greenbrook	207	8,263	8,394	8,711	9,926	9,748	7,715
	Bendale	2,453	6,347	6,582	7,112	7,200	7,676	7,755
	Birchcliffe-Cliffside	1,768	9,974	10,438	10,374	11,247	12,310	11,152
	Black Creek	595	6,771	6,776	7,261	7,289	7,810	7,266
	Blake-Jones	551	9,825	10,578	11,476	12,045	14,293	8,832
	Briar Hill-Belgravia	913	7,289	7,559	7,660	7,974	8,671	8,984
	Bridle Path-Sunnybrook-York Mills	890	17,503	17,696	20,104	24,960	21,779	23,428
	Broadview North	454	11,158	10,560	11,242	11,496	12,073	11,224
	Brookhaven-Amesbury	664	7,375	6,893	7,972	8,188	8,547	7,232
	Cabbagetown-South St. James Town	1,096	10,932	10,570	9,901	11,613	13,549	16,280
	Caledonia-Fairbank	681	7,797	7,956	8,285	8,993	9,195	10,052
	Casa Loma	608	18,960	19,477	19,222	17,802	20,685	29,365
	Centennial Scarborough	774	9,789	9,783	10,115	10,926	11,572	10,280
	Church-Yonge Corridor	3,438	8,044	8,627	8,852	9,297	10,187	10,344
	Clairlea-Birchmount	1,343	7,554	7,976	8,340	8,685	9,152	9,304
	Clanton Park	802	11,979	12,250	11,389	13,017	15,053	15,997
	Cliffcrest	863	10,315	10,180	9,958	11,763	12,294	10,481
	Corso Italia-Davenport	782	9,153	9,871	10,684	11,517	11,964	10,189
	Crescent Town	715	6,550	6,142	6,520	6,626	6,458	5,508
	Danforth	630	11,258	11,343	11,849	12,879	13,920	13,340
	Danforth Village-East York	1,340	9,691	9,903	10,672	11,438	12,165	13,523
	Don Valley Village	1,402	8,800	8,902	8,693	9,686	12,198	10,711
	Dorset Park - Toronto	1,889	5,840	5,790	5,936	6,188	6,873	6,065
	Dovercourt-Wallace Emerson-Junction	2,121	9,360	9,824	10,002	10,992	11,932	12,207
	Downsview-Roding-CFB	1,330	8,101	8,105	8,056	9,015	9,452	10,291
	Dufferin Grove	666	9,155	9,786	10,029	11,421	10,801	13,875
	East End-Danforth	1,577	10,017	10,846	11,131	12,077	12,952	13,078
	East York	578	11,240	10,939	12,429	12,539	13,429	14,393
	Edenbridge-Humber Valley	674	15,910	17,242	16,893	20,488	20,171	16,466
	Eglinton East	939	6,117	5,440	6,255	6,436	6,855	5,725
	Elms-Old Rexdale	528	6,683	6,815	6,697	8,094	8,479	5,535
	Englemount-Lawrence	803	11,378	11,721	12,027	12,653	13,670	13,139
	Eringate-Centennial-West Deane	1,188	8,864	8,285	8,475	9,552	10,357	11,821
	Etobicoke West Mall	642	6,786	5,879	6,360	6,994	7,797	6,280
	Flemingdon Park	1,315	4,621	4,552	4,631	4,985	5,022	4,506
	Forest Hill North	438	18,265	16,386	15,939	22,751	21,576	16,947
	Forest Hill South	683	18,599	15,166	17,001	19,970	18,506	20,568

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Glenfield-Jane Heights	1,130	7,083	6,747	7,168	7,049	7,876	8,300
	Greenwood-Coxwell	1,346	8,753	9,284	9,585	10,720	11,708	12,505
	Guildwood	720	8,472	9,219	8,919	9,442	10,790	13,810
	Henry Farm	539	6,852	6,571	8,105	7,813	7,911	11,288
	High Park North	906	13,247	12,827	12,731	14,053	15,406	15,536
	High Park-Swansea	1,715	13,121	12,719	12,902	14,413	14,584	14,684
	Highland Creek	535	9,835	9,654	10,547	11,753	12,007	13,404
	Hillcrest Village	1,352	8,789	9,413	9,023	10,095	10,993	12,640
	Humber Heights	557	9,336	9,411	9,306	9,887	10,313	12,923
	Humber Summit	530	7,579	7,166	7,440	7,864	8,106	6,726
	Humberlea-Pelmo Park W4	245	9,250	9,699	9,417	10,277	10,310	11,315
	Humberlea-Pelmo Park W5	260	7,746	7,297	7,890	8,827	9,909	9,204
	Humbermede	581	7,599	7,836	7,769	7,684	8,510	8,520
	Humewood-Cedarvale	522	15,249	16,295	15,571	17,951	18,798	16,031
	Ionview	520	6,959	7,392	7,152	7,857	7,858	8,772
	Islington-City Centre West	3,623	10,296	9,774	10,062	10,596	11,435	12,988
	Junction Area	876	10,291	10,771	11,576	13,019	11,988	11,170
	Keelesdale-Eglinton West	869	7,224	7,088	7,390	7,854	8,519	6,852
	Kennedy Park	1,085	5,834	5,999	6,224	6,548	6,890	6,821
	Kensington-Chinatown	1,041	9,029	9,242	9,711	10,901	10,896	7,987
	Kingsview Village-The Westway	1,188	8,681	7,946	9,358	10,119	10,814	9,673
	Kingsway South	698	18,481	19,662	19,500	21,231	21,819	20,992
	Lambton Baby Point	438	14,081	14,662	16,197	15,890	18,237	11,876
	LAmoreaux	2,732	6,915	6,754	7,163	7,935	7,922	8,321
	Lansing-Westgate	1,641	11,059	10,438	11,999	12,934	14,593	15,221
	Lawrence Park North	1,412	16,787	15,626	16,686	20,382	22,573	22,416
	Lawrence Park South	1,066	19,978	18,936	18,011	21,873	23,690	25,956
	Leaside	1,242	18,536	19,274	19,807	20,792	22,103	19,912
	Little Portugal	559	11,279	11,312	12,088	13,240	13,975	13,562
	Long Branch	782	9,581	9,381	9,637	10,864	11,150	13,086
	Malvern	3,113	5,580	5,646	5,691	6,154	6,301	6,316
	Maple Leaf	268	10,506	10,918	11,133	11,302	12,300	11,699
	Markland Wood	717	10,416	9,556	9,888	10,874	11,633	10,520
	Milliken	1,823	6,713	6,602	6,973	7,701	8,792	8,265
	Mimico	3,726	8,970	9,069	9,492	10,491	10,878	10,137
	Morningside	1,066	6,407	6,188	6,658	6,932	7,164	6,815
	Moss Park	1,929	9,240	8,987	9,562	9,916	10,956	11,295
	Mount Dennis	780	5,915	5,849	6,131	6,727	6,686	5,767
	Mount Olive-Silverstone-Jamestown	1,703	5,068	4,972	4,954	5,464	5,906	5,879
	Mount Pleasant East	1,371	16,208	16,351	16,794	18,737	20,373	21,660
	Mount Pleasant West	2,277	10,662	10,422	11,007	12,639	12,783	11,876
	New Toronto	816	9,213	9,148	9,043	10,077	10,064	8,162
	Newtonbrook East	1,884	10,487	10,181	11,656	11,734	14,193	14,573
	Newtonbrook West	2,057	9,720	10,197	10,347	11,738	13,304	13,828
	Niagara	5,642	7,947	8,413	8,591	9,324	9,763	10,285
	North Riverdale	703	14,457	16,360	15,888	17,276	19,716	20,661
	North St. James Town	404	11,573	12,414	12,044	11,083	11,284	12,064
	Oakridge	475	6,681	6,793	7,364	7,810	8,058	7,127
	Oakwood-Vaughan	1,271	9,047	9,558	9,853	10,243	10,999	11,405
	OConnor-Parkview	784	9,699	9,703	10,456	10,908	12,829	14,243
	Palmerston-Little Italy	671	15,205	14,330	14,223	15,821	18,560	18,048
	Parkwoods-Donalda	1,293	10,346	9,741	9,717	10,711	12,105	11,820
	Playter Estates-Danforth	363	15,290	16,858	16,027	18,739	18,846	23,293
	Pleasant View	973	8,301	8,347	8,296	8,764	10,460	9,466
	Princess-Rosethorn	669	18,389	18,236	19,057	21,078	22,914	23,405
	Regent Park	251	11,209	9,608	9,662	9,889	11,344	10,035
	Rexdale-Kipling	418	7,940	8,066	8,080	8,791	9,168	9,420
	Rockcliffe-Smythe	1,453	7,028	7,189	7,632	8,146	8,348	8,243
	Roncesvalles	934	11,852	11,783	11,955	13,075	13,971	16,299
	Rosedale-Moore Park	1,820	15,980	15,266	15,602	17,888	20,069	23,932
	Rouge E10	580	8,938	9,078	9,851	10,746	11,358	11,469
	Rouge E11	2,215	8,099	7,855	8,332	8,967	9,492	8,419
	Runnymede-Bloor West Village	804	13,013	13,752	14,387	15,009	16,121	14,784
	Rustic	195	10,349	10,294	11,168	10,754	11,700	11,975
	Scarborough Village	779	7,766	6,878	7,371	7,501	8,977	9,270
	South Parkdale	590	9,518	10,406	10,972	12,174	11,805	7,938

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	South Riverdale	2,462	9,980	10,741	11,241	11,683	12,594	12,687
	St. Andrew-Windfields	1,338	18,526	17,915	19,242	20,760	22,616	20,623
	Steeles	1,677	7,771	7,739	7,952	8,578	9,999	9,597
	Stonegate-Queensway	1,765	13,406	13,732	14,046	15,181	16,500	16,528
	Tam OShanter-Sullivan	1,413	8,034	7,616	8,017	8,721	9,455	7,568
	The Beaches	2,065	14,724	14,617	15,562	18,066	18,269	18,886
	Thistletown-Beaumonde Heights	453	8,033	8,551	9,063	8,568	9,815	12,840
	Thorncliffe Park	302	6,068	6,242	6,530	6,739	7,139	6,268
	Trinity-Bellwoods	953	12,507	13,435	13,856	14,641	15,908	16,424
	University	317	16,937	14,615	16,958	18,249	17,328	15,838
	Victoria Village	821	7,321	6,665	6,992	7,907	8,571	10,053
	Waterfront Communities C1	8,630	8,347	8,790	9,094	9,488	10,310	10,380
	Waterfront Communities C8	1,001	7,069	8,307	9,156	10,846	9,910	10,199
	West Hill	1,543	6,577	6,677	6,732	7,427	7,581	9,452
	West Humber-Clairville	2,083	6,933	6,891	7,065	7,233	7,681	7,154
	Westminster-Branson	1,336	7,927	7,617	7,703	8,255	8,899	9,881
	Weston	1,154	6,673	6,467	6,506	6,967	7,613	7,138
	Weston-Pellam Park	824	7,181	7,257	7,411	8,393	9,120	9,209
	Wexford-Maryvale	1,345	7,809	8,031	8,430	9,226	10,028	10,456
	Willowdale East	8,347	8,993	8,998	10,044	11,429	12,355	13,600
	Willowdale West	2,052	10,080	9,678	10,687	11,471	12,157	14,116
	Willowridge-Martingrove-Richview	830	10,996	10,894	10,854	12,096	12,522	12,782
	Woburn	3,500	5,979	5,968	6,392	6,927	7,469	7,324
	Woodbine Corridor	1,001	9,795	10,574	10,613	12,053	12,305	12,514
	Woodbine-Lumsden	836	8,136	8,893	9,132	9,776	9,996	12,537
	Wychwood	636	12,522	12,813	12,751	13,391	15,307	17,904
	Yonge-Eglinton	593	19,386	19,326	19,676	20,316	20,795	25,440
	Yonge-St. Clair	987	16,367	17,454	17,224	20,580	20,902	17,145
	York University Heights	1,190	7,366	6,708	7,615	9,050	9,058	7,619
	Yorkdale-Glen Park	638	9,633	8,919	10,156	10,809	11,743	12,239
York	Aileen-Willowbrook	1,025	8,619	9,261	9,162	10,372	10,484	9,828
	Angus Glen	300	11,990	13,704	14,096	16,781	18,770	22,707
	Armitage	294	9,209	8,964	8,774	9,758	10,375	12,571
	Aurora Estates	231	16,595	17,266	18,912	21,068	20,551	25,111
	Aurora Grove	312	8,530	8,498	8,750	9,479	9,314	9,792
	Aurora Heights	437	9,083	8,758	9,232	9,997	10,608	11,338
	Aurora Highlands	1,101	10,564	11,308	10,586	11,621	12,991	15,413
	Aurora Village	553	9,764	10,227	9,824	10,118	11,029	12,031
	Baldwin	204	7,734	8,217	8,025	8,349	9,194	8,766
	Ballantrae	267	13,491	13,397	14,397	14,983	14,794	17,410
	Bayview Fairway-Bayview Country Club Estates	252	11,678	9,340	12,541	12,557	12,505	12,843
	Bayview Glen	159	21,242	19,672	23,608	24,403	30,547	32,810
	Bayview Hill	666	20,766	21,359	22,070	26,349	30,073	33,598
	Bayview Northeast	633	9,193	9,677	10,227	11,719	12,970	14,747
	Bayview Southeast	45	23,384		31,082	27,906	23,787	22,500
	Bayview Wellington	944	8,384	8,661	8,382	9,362	9,999	11,835
	Beaver Creek Business Park	216	5,900	6,181	6,686	6,519	7,398	6,947
	Belhaven	65	10,776	9,412	10,470	7,651	12,029	13,125
	Berczy	1,433	9,466	10,179	10,686	11,875	12,827	12,821
	Beverley Glen	1,013	10,019	10,510	10,915	11,209	12,154	13,678
	Box Grove	488	11,010	11,339	11,637	12,644	13,952	14,917
	Bristol-London	778	7,495	7,921	7,645	8,534	9,187	9,246
	Brownridge	1,267	9,580	9,910	9,815	11,028	11,509	11,627
	Bullock	273	9,759	9,516	10,441	11,646	12,270	13,053
	Buttonville	320	12,000	11,940	13,289	13,936	16,167	18,507
	Cachet	693	14,025	13,660	15,528	16,887	17,949	25,171
	Cathedraltown	204	11,885	12,791	11,625	13,590	14,716	14,317
	Cedar Grove	24		14,750	13,701	12,162	11,691	
	Cedarwood	304	8,224	8,277	8,624	10,261	10,965	12,348
	Central Newmarket	1,023	6,947	7,248	7,016	7,447	8,386	9,164
	Commerce Valley	1,168	6,030	6,285	6,764	7,229	7,572	7,786
	Concord	153	9,777	9,918	10,103	12,648	13,255	9,125
	Cornell	1,527	8,389	8,770	8,956	9,717	10,360	11,058
	Crestwood-Springfarm-Yorkhill	1,770	9,620	10,215	9,996	11,200	12,144	13,874
	Crosby	967	8,042	8,383	8,763	9,510	10,797	11,486
	Devils Elbow	113	26,307	24,260	24,223	29,666	29,605	

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Devonsleigh	743	10,933	10,796	11,380	12,353	13,407	13,229
	Doncrest	677	12,536	11,682	13,218	15,313	15,797	13,799
	East Woodbridge	1,376	11,812	12,959	12,132	13,981	14,026	14,699
	Elder Mills	132	11,534	12,336	11,469	12,939	13,862	13,570
	Georgina Island	14			5,301	7,592	8,010	
	German Mills	384	9,809	10,359	10,211	12,240	14,087	11,416
	Glen Shields	308	9,613	9,832	9,604	9,945	11,657	11,965
	Glenway Estates	274	11,229	11,175	11,511	12,896	12,985	14,766
	Gorham-College Manor	938	8,225	8,044	7,980	8,730	9,732	9,230
	Grandview	261	15,144	15,468	15,826	19,029	18,918	19,115
	Greensborough	1,345	9,096	9,009	9,431	10,465	10,903	12,838
	Harding	1,023	7,538	7,801	8,105	8,645	9,935	9,654
	Headford Business Park	3					20,988	
	Hills of St Andrew	217	15,619	19,517	17,120	17,445	20,105	21,538
	Historic Lakeshore Communities	712	6,846	6,953	6,757	7,935	7,386	8,338
	Holland Landing	486	8,499	8,732	8,447	9,154	9,720	7,579
	Huron Heights-Leslie Valley	568	7,934	7,711	7,957	8,593	9,105	9,808
	Islington Woods	444	14,872	15,191	14,573	16,309	18,945	15,698
	Jefferson	1,282	11,910	12,679	13,368	14,036	15,777	15,414
	Keswick North	914	6,503	6,896	6,630	7,170	7,287	8,870
	Keswick South	1,463	6,114	6,269	6,302	6,534	6,843	6,753
	King City	308	16,851	17,569	15,575	16,163	19,191	22,380
	Kleinburg	275	20,718	20,769	17,265	21,610	24,329	
	Lakeview Estates	497	9,206	8,667	9,506	8,879	9,370	10,084
	Langstaff	2,423	8,292	8,374	8,606	9,456	10,698	11,237
	Langstaff South	2			13,625	17,000		
	Legacy	184	11,475	12,228	12,357	14,806	14,843	14,257
	Maple	2,486	9,817	10,157	10,179	11,127	11,278	11,817
	Markham Village	733	10,118	10,695	11,013	12,482	12,924	13,765
	Markville	611	10,133	10,449	11,268	12,532	13,346	11,522
	Middlefield	1,208	8,659	9,108	9,311	10,222	11,624	11,742
	Mill Pond	806	11,245	12,386	12,692	13,510	15,806	18,277
	Milliken Mills East	1,407	9,422	9,985	9,912	11,280	12,145	11,194
	Milliken Mills West	480	8,969	9,522	9,836	10,834	11,301	11,599
	Mt Albert	409	7,744	8,090	7,559	7,721	8,369	8,345
	Newmarket Industrial Park	8	7,467				14,500	20,625
	Nobleton	199	14,685	14,881	13,709	15,281	17,201	12,040
	North Richvale	1,399	9,320	9,388	10,011	10,785	13,050	13,013
	Oak Ridges	1,592	10,983	11,679	11,892	12,975	14,588	15,746
	Oak Ridges Lake Wilcox	1,310	11,260	11,277	11,620	12,710	13,823	15,318
	Observatory	709	8,183	8,130	9,516	10,310	10,997	8,670
	Old Markham Village	236	8,479	9,547	9,001	10,602	10,713	10,933
	Patterson	3,595	11,497	12,374	12,849	14,196	15,779	17,364
	Pefferlaw	330	7,021	6,189	6,433	6,678	7,154	10,006
	Pottageville	120	14,143	15,358	12,685	13,758	14,123	
	Queensville	46	10,520	9,313	10,642	13,158	12,833	12,638
	Raymerville	540	9,404	9,731	9,855	10,789	12,094	13,842
	Rouge Fairways	138	13,131	11,430	13,054	15,055	15,918	16,000
	Rouge River Estates	156	9,830	11,345	11,186	13,110	12,491	16,687
	Rouge Woods	1,621	10,771	11,476	11,644	13,189	14,883	15,259
	Royal Orchard	730	9,505	9,709	10,176	11,481	11,955	14,626
	Rural East Gwillimbury	311	11,850	12,454	11,541	14,532	13,694	13,956
	Rural King	498	15,915	16,633	17,236	17,424	18,505	17,263
	Rural Markham	78	12,819	15,020	20,314	15,446	15,338	16,225
	Rural Richmond Hill	107	18,015	18,665	21,188	22,051	25,611	30,500
	Rural Vaughan	460	11,691	12,391	14,706	13,505	16,865	20,060
	Rural Whitchurch-Stouffville	764	16,383	15,908	15,811	18,821	19,323	22,979
	Schomberg	136	9,910	9,584	8,596	10,619	11,418	11,629
	Sharon	197	12,494	13,999	12,827	13,802	14,709	15,342
	Sherwood-Amberglen	202	10,938	10,685	11,603	11,713	12,763	14,476
	Sonoma Heights	1,003	10,817	11,168	11,419	12,164	13,272	13,762
	South Richvale	472	17,403	18,263	19,140	20,447	22,955	23,640
	Steeles West Industrial	3		6,438	8,088			
	Stonehaven-Wyndham	893	11,443	11,662	11,574	11,982	13,794	12,569
	Stouffville	1,878	9,068	9,123	9,636	10,141	10,923	12,441
	Summerhill Estates	1,242	8,299	8,375	8,669	9,351	9,903	9,738

Exhibit 2d

Average Buy-Side Commission, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Sutton & Jacksons Point	610	6,458	6,147	7,015	6,550	6,546	6,530
	Thornhill	468	10,994	9,495	12,663	11,773	13,786	15,007
	Thornlea	270	14,179	15,462	15,527	18,330	20,302	20,800
	Unionville	2,554	12,436	12,979	11,260	12,731	12,728	11,815
	Uplands	382	15,927	15,540	16,126	18,419	22,163	24,317
	Vaughan Grove	86	9,995	9,786	10,771	11,451	9,844	9,448
	Vellore Village	3,338	10,317	10,816	11,023	12,207	13,297	13,966
	Victoria Manor-Jennings Gate	251	11,930	12,120	12,457	15,488	16,273	16,846
	Victoria Square	84	11,819	18,337	14,273	13,116	14,882	15,908
	Village Green-South Unionville	605	10,059	9,426	10,410	12,312	12,837	15,841
	Vinegar Hill	122	9,800	9,607	9,221	9,633	11,323	14,131
	Virginia	215	7,300	7,380	9,008	7,927	7,885	10,750
	West Woodbridge	949	10,122	10,039	9,803	10,529	11,385	10,860
	West Woodbridge Industrial Area	3	7,988			6,223	7,375	
	Westbrook	1,195	11,963	12,288	12,551	13,717	14,964	16,900
	Wismer	1,198	9,432	9,820	10,670	11,538	12,567	12,809
	Woodland Hill	909	8,291	8,658	8,647	9,546	10,672	10,816

Source: MLS Data; sold transactions.

Notes

Buy-side commissions based on MLS data showing buy-side commission offers.

Analysis based on communities, as identified in the MLS dataset.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 2e

Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
Durham	Amberlea	983	16,618	16,841	17,666	19,203	19,731	20,485
	Bay Ridges	600	13,158	13,452	14,175	15,180	15,276	15,455
	Beaverton	370	12,295	11,257	12,267	12,031	12,538	10,736
	Blackstock	68	12,442	13,842	11,755	13,179	14,189	11,342
	Blue Grass Meadows	961	14,347	14,702	14,667	16,107	16,715	16,039
	Bowmanville	3,971	11,124	11,308	11,707	12,261	12,878	12,964
	Brock Industrial	2				18,250	14,950	
	Brock Ridge	537	15,116	16,153	16,423	17,538	18,546	18,113
	Brooklin	1,732	15,868	16,427	16,860	18,059	18,874	20,865
	Cannington	214	11,074	11,287	10,848	12,613	11,444	8,870
	Centennial	1,074	11,434	10,919	11,258	11,814	12,387	12,318
	Central - Ajax	1,660	13,212	13,159	13,194	14,310	15,098	15,702
	Central - Oshawa	1,043	9,024	8,715	9,173	9,226	9,812	9,502
	Central East	275	17,125	16,652	16,518	18,192	16,858	18,026
	Central West	1,685	14,862	15,718	15,150	17,030	17,551	18,833
	Columbus	22	21,538	19,170	22,888	28,742	24,925	
	Courtice	2,286	12,332	13,110	12,611	13,500	14,148	13,906
	Donevan	1,067	10,949	10,799	10,778	11,543	11,410	11,637
	Downtown Whitby	951	12,602	12,445	12,718	13,167	13,528	15,186
	Duffin Heights	6					16,125	19,988
	Dunbarton	178	24,214	23,960	23,981	25,673	28,872	30,750
	Eastdale	1,044	11,385	11,853	11,365	12,118	12,359	14,831
	Farewell	94	9,952	9,835	9,242	10,100	10,856	9,775
	Highbush	505	18,013	16,348	19,505	20,355	22,154	23,561
	Kedron	82	16,214	17,037	16,705	19,228	20,499	17,725
	Lakeview - Oshawa	1,328	9,015	8,927	8,803	9,588	10,045	9,371
	Liverpool	1,256	15,319	14,953	16,315	17,263	17,851	19,760
	Lynde Creek	776	15,240	15,265	14,138	16,659	18,053	16,224
	McLaughlin	868	11,709	11,303	11,086	12,103	12,626	12,668
	Newcastle	734	13,135	12,849	12,882	14,262	14,835	15,391
	Northeast Ajax	1,011	16,504	17,285	17,525	19,605	19,636	19,566
	Northglen	343	14,197	14,428	13,362	13,503	14,505	11,142
	Northwest Ajax	1,190	17,111	16,980	18,198	18,842	20,233	21,635
	Northwood	13	16,550	18,600	14,813	17,800	22,255	
	ONeill	1,255	10,330	10,378	10,375	10,618	10,625	9,709
	Orono	92	11,484	11,277	11,610	12,917	13,002	
	Pinecrest	1,108	12,830	12,536	12,731	13,416	14,735	13,706
	Port Perry	752	15,167	15,808	15,366	16,336	18,029	21,338
	Port Whitby	686	14,445	14,863	13,975	15,411	16,373	15,403
	Pringle Creek	1,895	13,197	13,491	13,422	14,334	14,728	14,624
	Raglan	20	12,348	17,300	17,212	18,681	24,175	23,500
	Rolling Acres	1,176	15,211	15,532	15,848	16,417	17,963	18,715
	Rosebank	163	24,106	19,961	24,644	25,925	25,605	27,413
	Rouge Park	96	16,154	18,055	20,662	25,114	20,522	31,373
	Rougemount	202	26,330	21,382	21,261	22,532	28,056	23,250
	Rural Brock	274	17,708	15,168	15,546	18,898	19,072	19,848
	Rural Clarington	820	18,862	17,230	18,401	20,541	20,416	17,318
	Rural Oshawa	47	25,081	18,824	22,345	27,516	27,652	
	Rural Pickering	234	24,953	26,163	26,231	22,898	28,463	23,948
	Rural Scugog	873	17,184	18,496	17,331	18,714	19,163	14,838
	Rural Uxbridge	566	24,057	23,619	25,527	26,624	28,671	21,922
	Rural Whitby	166	24,732	27,220	27,616	30,719	25,847	31,997
	Samac	1,248	12,543	12,110	11,906	13,080	13,274	13,044
	South East	1,926	14,114	14,748	14,805	15,592	16,271	15,924
	South West	883	12,802	12,621	12,753	14,132	14,508	14,163
	Stevenson	22	10,080	11,303	8,070	8,542	9,000	
	Sunderland	105	10,098	10,989	11,564	11,723	10,922	10,030
	Taunton	569	15,648	16,358	15,815	16,660	18,109	20,544
	Taunton North	720	15,243	15,905	15,408	16,855	16,883	17,577
	Town Centre	625	11,336	11,581	11,380	12,199	12,171	14,418
	Uxbridge	974	17,936	16,578	16,921	17,196	18,523	17,530
	Vanier	893	8,846	9,128	9,027	9,313	9,815	10,141
	Village East	671	11,179	11,711	11,838	12,052	12,704	12,155
	West Shore	518	13,503	15,277	14,590	15,875	16,599	13,308
	Whitby Industrial	9	11,000	14,925	16,373	19,900	13,950	
	Williamsburg	1,345	15,576	15,435	16,601	17,944	17,842	16,671
	Windfields	170	14,704	14,194	15,876	16,283	15,632	15,690
	Woodlands	188	18,213	18,765	17,780	20,085	21,860	17,104

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Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
Halton	401 Business Park	23	14,336	16,175	19,413	15,211	44,100	
	Acton	1,012	14,541	15,535	15,061	16,008	16,999	16,210
	Alton - Burlington	639	19,195	19,376	21,214	20,891	21,947	22,751
	Appleby	1,056	15,294	16,070	15,604	17,540	17,527	17,539
	Bayview	170	19,795	21,159	19,011	21,564	22,583	37,050
	Beaty	2,309	17,503	17,657	17,836	20,563	21,050	22,168
	Bowes	1					16,000	
	Brant	759	17,601	17,966	17,785	19,743	19,298	15,450
	Brant Hills	522	13,662	14,304	14,954	15,688	16,394	14,450
	Bronte East	1,011	23,803	25,275	26,066	28,751	30,478	37,359
	Bronte Meadows	507	13,152	14,833	15,142	15,933	18,192	17,933
	Bronte West	2,077	23,236	24,399	24,583	26,274	27,940	32,425
	Brookville	64	34,618	32,366	34,778	39,834	37,742	39,495
	Campbellville	94	26,813	27,458	27,484	31,254	31,863	26,517
	Clarke	1,411	16,574	17,107	17,535	18,843	19,917	22,580
	Clearview	520	20,890	22,125	22,623	26,170	26,925	29,435
	Coates	1,005	17,638	17,269	17,786	19,454	20,860	21,872
	Cobban	1					19,575	
	College Park	1,056	16,296	16,861	17,390	18,506	21,211	21,799
	Dempsey	1,180	17,212	16,870	16,555	18,424	18,651	19,441
	Derry Green Business Park	4	18,750		26,250		30,420	
	Dorset Park - Milton	454	15,922	14,771	15,145	17,406	16,239	18,356
	Eastlake	1,100	39,505	42,270	41,445	43,290	48,179	62,396
	Esquesing	7		31,313	27,400	65,000	41,875	
	Freeman	79	13,201	14,270	14,652	16,875	17,135	11,440
	Georgetown	3,362	17,501	18,090	17,926	20,262	21,300	21,310
	Glen Abbey	1,978	20,605	21,661	22,763	24,544	25,548	26,584
	Glen Williams	91	33,234	31,667	35,779	33,205	28,734	57,750
	Grindstone	18	32,000	18,863	33,563	25,886	18,241	
	Harrison	797	18,750	16,481	17,481	18,837	20,259	21,645
	Headon	644	15,535	15,772	15,364	17,173	17,654	11,571
	Iroquois Ridge North	1,475	28,706	29,237	31,847	34,687	36,118	36,772
	Iroquois Ridge South	752	17,197	17,705	19,182	20,206	21,367	17,236
	LaSalle	337	21,717	19,055	21,042	22,703	25,249	27,000
	Limehouse	12	11,400		19,819		23,470	22,575
	Milton Heights	25	22,100	27,667	12,317	23,843	22,388	
	Moffat	32	32,949	28,409	37,536	28,183	21,000	24,125
	Mountain View	100	16,777	17,438	16,749	17,775	19,118	
	Mountainside	294	13,590	13,884	13,803	14,784	15,788	16,775
	Nassagaweya	259	28,087	31,289	33,816	33,519	34,921	
	Nelson	75	31,239	37,093	33,705	29,996	31,675	24,200
	Old Milton	253	15,651	15,350	16,198	18,400	19,073	19,667
	Old Oakville	1,612	27,170	28,908	30,301	34,185	36,542	39,782
	Orchard	979	18,565	18,670	19,915	22,062	23,167	23,137
	Palermo West	911	20,500	22,782	26,800	28,847	30,860	29,793
	Palmer	352	13,697	13,416	13,799	14,902	15,025	15,449
	River Oaks	1,654	22,583	22,676	21,973	25,569	26,258	22,911
	Rose	718	20,939	23,970	24,433	25,158	26,627	37,551
	Roseland	457	19,348	21,810	21,628	25,742	29,555	25,400
	Rural Burlington	143	31,629	35,442	31,877	36,669	39,428	58,000
	Rural Halton Hills	520	25,612	29,642	27,250	29,770	30,273	38,750
	Rural Oakville	33	26,883	20,713	30,792	50,375	31,956	60,000
	Scott	584		18,572	20,266	22,354	23,208	25,935
	Shoreacres	474	19,502	18,413	20,046	21,346	21,129	29,425
	Stewarttown	29	21,611	21,656	19,400	24,256	32,928	
	Tansley	433	11,357	12,176	12,363	13,490	13,431	10,631
	Timberlea	533	16,188	15,996	16,420	18,042	19,718	19,259
	Trafalgar	89	22,949	30,363	30,038	43,982	26,441	46,467
	Tyandaga	305	22,085	27,658	27,665	27,045	29,324	55,000
	Uptown	549	12,002	13,264	13,568	14,317	14,761	17,700
	Uptown Core	823	16,063	15,174	15,626	15,622	17,943	17,820
	Walker	34		14,728	15,288	18,014	19,449	
	West Oak Trails	3,758	20,575	21,671	22,396	24,553	26,469	28,920
	Willmont	118	29,700	16,950	25,206	26,478	23,362	22,886
	Winston Park	2	15,600			30,850		
Peel	Airport Road/Hwy 7 Bus. Centre	1				22,900		
	Alton - Caledon	63	17,185	18,856	16,176	17,945	17,741	16,850
	Applewood	1,982	14,330	14,508	15,691	16,904	16,703	15,747

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Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Avondale	579	12,886	13,588	13,602	14,871	15,645	14,623
	Bolton East	710	17,735	18,652	18,661	20,410	21,098	22,014
	Bolton North	598	18,206	19,697	19,009	20,810	20,972	22,199
	Bolton West	814	16,660	19,231	18,427	20,002	20,766	22,102
	Bram East	2,203	20,618	21,294	22,494	23,427	25,048	24,877
	Bram West	806	21,837	22,143	22,592	24,732	24,506	22,150
	Bramalea North Industrial	212	17,900	18,511	18,791	20,671	22,266	21,338
	Bramalea Road South Gateway	1					12,720	
	Bramalea South Industrial	3		28,350		26,750	28,250	
	Bramalea West Industrial	124	9,576	10,102	9,685	11,361	12,327	
	Brampton 407 Corridor	14	16,975	15,500	14,775	18,411	19,138	
	Brampton East	855	14,561	14,763	15,289	16,239	17,383	18,896
	Brampton North	1,527	12,707	12,862	12,949	13,696	14,786	15,649
	Brampton South	763	14,873	13,558	14,203	15,440	16,732	13,755
	Brampton West	1,369	14,119	14,150	14,182	15,297	16,528	18,232
	Caledon East	176	21,178	22,800	21,786	23,967	26,151	12,100
	Caledon Village	89	22,811	23,487	20,742	25,018	26,118	
	Central Erin Mills	2,806	18,224	19,457	19,590	21,851	23,230	21,216
	Central Park	1,347	12,096	12,843	12,850	13,141	13,931	15,422
	Cheltenham	31	37,213	25,138	20,373	25,067	17,250	33,750
	Churchill Meadows	4,130	19,424	20,119	20,861	22,095	23,494	22,980
	City Centre	5,190	10,925	11,559	11,918	12,938	13,584	14,436
	Claireville Conservation	3	47,000			37,875		
	Clarkson	2,112	17,490	17,284	18,817	20,459	21,325	19,694
	Cooksville	2,942	14,564	14,545	15,305	16,592	17,257	18,977
	Credit Valley	744	21,558	18,108	18,920	19,795	21,672	26,593
	Creditview	818	16,368	16,944	16,827	18,238	21,055	21,229
	Dixie	71	14,529	13,213	14,003	14,014	19,315	25,750
	Downtown Brampton	720	14,585	14,875	14,646	15,993	16,636	16,186
	East Credit	4,061	19,960	20,083	20,989	23,146	24,744	25,906
	Erin Mills	3,090	18,427	18,827	19,085	21,595	22,474	22,570
	Erindale	1,691	16,350	16,492	19,400	19,739	22,242	22,421
	Fairview	1,030	14,799	14,907	15,091	15,786	17,918	21,767
	Fletchers Creek South	1,825	14,728	14,643	14,860	15,550	16,671	17,373
	Fletchers Creek Village	904	15,393	15,745	15,920	16,679	18,225	18,037
	Fletchers Meadow	5,512	16,189	16,850	16,888	18,382	19,244	19,766
	Fletchers West	1,340	15,234	15,685	15,596	17,308	18,212	20,543
	Gore Industrial North	217	17,404	17,738	17,539	19,502	19,607	22,608
	Goreway Drive Corridor	123	12,622	11,309	11,988	10,975	10,660	17,906
	Heart Lake	17			51,250		16,824	20,237
	Heart Lake East	763	14,845	15,057	15,752	16,967	17,703	19,199
	Heart Lake West	1,261	14,734	15,251	15,467	16,603	17,833	17,515
	Highway 427	3						36,000
	Hurontario	5,325	14,997	15,748	16,177	17,022	18,131	18,864
	Huttonville	13	26,750	34,638		25,508	33,624	
	Inglewood	53	27,659	35,383	27,831	26,783	34,876	28,133
	Lakeview - Mississauga	1,652	17,322	18,528	19,718	20,930	21,685	23,218
	Lisgar	2,786	17,999	18,805	19,086	21,102	22,251	23,133
	Lorne Park	1,031	35,334	35,881	36,912	41,233	42,842	44,906
	Madoc	2,105	13,569	13,801	14,216	15,556	16,130	15,931
	Malton	2,117	13,068	13,396	13,327	14,660	15,052	15,595
	Mavis-Erindale	4					18,308	65,000
	Meadowvale	3,271	14,092	14,574	14,605	15,606	17,422	17,445
	Meadowvale Business Park	55	12,182	11,885	12,589	13,792	14,517	
	Meadowvale Village	2,685	18,741	20,122	20,516	22,388	23,651	26,412
	Mineola	782	30,417	30,207	30,231	36,103	35,584	36,931
	Mississauga Valleys	1,981	11,736	11,727	12,716	12,854	13,963	14,913
	Mono Mills	32	18,910	16,417	17,504	18,850	19,663	
	Northeast	109	11,725	11,761	10,559	12,731	11,469	
	Northgate	1,216	13,157	13,312	13,478	14,490	15,297	17,343
	Northwest Brampton	54	23,650	26,233	21,751	19,188	21,932	21,441
	Northwest Sandalwood Parkway	1,026	15,586	16,291	16,648	18,242	19,534	17,780
	Northwood Park	750	15,471	15,225	15,549	16,976	17,895	19,537
	Palgrave	235	29,724	34,884	33,425	32,556	35,079	43,916
	Parkway Belt Industrial Area	2	28,000			24,500		
	Port Credit	696	23,510	27,868	24,648	28,605	30,124	26,367
	Queen Street Corridor	1,526	8,487	8,300	8,606	8,973	9,713	9,683
	Rathwood	1,573	16,754	17,167	17,364	19,090	20,664	18,321

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Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Rural Caledon	1,296	26,879	27,347	27,342	30,311	30,129	34,366
	Sandringham-Wellington	5,685	16,529	17,268	17,718	19,187	20,720	20,116
	Sandringham-Wellington North	13			25,167	15,500	22,320	20,200
	Sheridan	969	23,309	20,505	24,389	26,247	27,146	35,139
	Sheridan Park	1					22,100	
	Snelgrove	805	19,369	20,910	21,231	22,356	23,722	23,643
	Southdown	1	24,250					
	Southgate	1,058	11,700	11,780	11,648	12,272	13,410	14,039
	Streetsville	943	16,807	17,813	18,045	19,030	21,756	20,599
	Toronto Gore Rural Estate	113	35,674	40,687	38,923	42,951	38,856	43,433
	Vales of Castlemore	891	21,605	22,987	23,073	24,470	26,249	27,941
	Vales of Castlemore North	413	24,797	25,859	25,382	29,093	30,250	30,792
	Westgate	782	17,899	17,671	18,121	18,761	20,108	21,293
Toronto	Agincourt North	1,880	13,306	13,429	14,158	15,578	17,322	16,119
	Agincourt South-Malvern West	1,457	13,734	13,380	13,501	15,965	16,605	15,893
	Alderwood	826	18,778	19,018	20,118	21,911	23,899	29,322
	Annex	2,012	31,811	32,484	30,087	34,815	38,744	47,075
	Banbury-Don Mills	2,207	22,930	23,257	23,851	26,667	26,617	31,899
	Bathurst Manor	815	21,236	23,672	23,715	25,086	25,330	27,190
	Bay Street Corridor	2,980	16,019	16,737	18,475	20,270	24,246	26,097
	Bayview Village	2,175	19,208	20,463	20,670	24,114	25,855	27,271
	Bayview Woods-Steeles	594	28,009	28,212	29,612	31,867	36,213	37,048
	Bedford Park-Nortown	1,690	41,601	40,702	41,858	44,797	48,262	58,723
	Beechborough-Greenbrook	207	16,526	16,788	17,422	19,851	19,497	15,430
	Bendale	2,453	12,694	13,164	14,225	14,399	15,351	15,511
	Birchcliffe-Cliffside	1,768	19,948	20,876	20,747	22,494	24,620	22,304
	Black Creek	595	13,541	13,553	14,522	14,578	15,620	14,531
	Blake-Jones	551	19,650	21,156	22,951	24,091	28,587	17,664
	Briar Hill-Belgravia	913	14,577	15,118	15,319	15,947	17,342	17,968
	Bridle Path-Sunnybrook-York Mills	890	35,006	35,391	40,208	49,919	43,558	46,855
	Broadview North	454	22,316	21,120	22,484	22,991	24,145	22,448
	Brookhaven-Amesbury	664	14,751	13,786	15,944	16,377	17,094	14,464
	Cabbagetown-South St. James Town	1,096	21,864	21,141	19,803	23,226	27,098	32,559
	Caledonia-Fairbank	681	15,593	15,912	16,571	17,986	18,390	20,103
	Casa Loma	608	37,920	38,955	38,443	35,605	41,369	58,730
	Centennial Scarborough	774	19,578	19,565	20,230	21,852	23,143	20,561
	Church-Yonge Corridor	3,438	16,088	17,253	17,703	18,593	20,374	20,689
	Clairlea-Birchmount	1,343	15,108	15,952	16,681	17,370	18,304	18,608
	Clanton Park	802	23,959	24,500	22,777	26,034	30,105	31,995
	Cliffcrest	863	20,630	20,359	19,916	23,525	24,588	20,962
	Corso Italia-Davenport	782	18,307	19,741	21,368	23,034	23,929	20,378
	Crescent Town	715	13,101	12,284	13,039	13,252	12,917	11,017
	Danforth	630	22,516	22,686	23,699	25,758	27,839	26,680
	Danforth Village-East York	1,340	19,382	19,806	21,344	22,875	24,329	27,046
	Don Valley Village	1,402	17,600	17,803	17,385	19,372	24,395	21,423
	Dorset Park - Toronto	1,889	11,680	11,579	11,873	12,375	13,747	12,130
	Dovercourt-Wallace Emerson-Junction	2,121	18,719	19,648	20,005	21,983	23,864	24,414
	Downsview-Roding-CFB	1,330	16,202	16,209	16,111	18,030	18,904	20,581
	Dufferin Grove	666	18,309	19,572	20,058	22,843	21,602	27,750
	East End-Danforth	1,577	20,033	21,692	22,262	24,154	25,903	26,155
	East York	578	22,480	21,878	24,859	25,079	26,857	28,787
	Edenbridge-Humber Valley	674	31,820	34,484	33,786	40,977	40,342	32,932
	Eglinton East	939	12,235	10,879	12,510	12,872	13,710	11,450
	Elms-Old Rexdale	528	13,365	13,629	13,393	16,187	16,958	11,070
	Englemount-Lawrence	803	22,757	23,443	24,053	25,305	27,339	26,277
	Eringate-Centennial-West Deane	1,188	17,728	16,569	16,951	19,103	20,714	23,642
	Etobicoke West Mall	642	13,572	11,759	12,720	13,988	15,594	12,560
	Flemingdon Park	1,315	9,242	9,104	9,261	9,969	10,044	9,012
	Forest Hill North	438	36,530	32,771	31,879	45,502	43,153	33,894
	Forest Hill South	683	37,197	30,331	34,002	39,940	37,012	41,136
	Glenfield-Jane Heights	1,130	14,165	13,494	14,336	14,098	15,752	16,601
	Greenwood-Coxwell	1,346	17,507	18,568	19,170	21,441	23,416	25,010
	Guildwood	720	16,944	18,438	17,838	18,884	21,580	27,621
	Henry Farm	539	13,704	13,142	16,209	15,626	15,822	22,575
	High Park North	906	26,495	25,654	25,461	28,106	30,812	31,073
	High Park-Swansea	1,715	26,242	25,438	25,804	28,826	29,167	29,368
	Highland Creek	535	19,670	19,308	21,093	23,506	24,015	26,809
	Hillcrest Village	1,352	17,578	18,826	18,045	20,190	21,987	25,279

Exhibit 2e

Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Humber Heights	557	18,673	18,821	18,613	19,774	20,627	25,847
	Humber Summit	530	15,159	14,332	14,879	15,729	16,211	13,453
	Humberlea-Pelmo Park W4	245	18,500	19,399	18,834	20,554	20,620	22,630
	Humberlea-Pelmo Park W5	260	15,492	14,594	15,780	17,654	19,819	18,409
	Humbermede	581	15,197	15,672	15,539	15,369	17,020	17,041
	Humewood-Cedarvale	522	30,498	32,590	31,141	35,901	37,596	32,063
	Ionview	520	13,918	14,783	14,304	15,714	15,715	17,544
	Islington-City Centre West	3,623	20,592	19,548	20,123	21,192	22,870	25,977
	Junction Area	876	20,582	21,542	23,153	26,039	23,975	22,340
	Keelesdale-Eglinton West	869	14,448	14,177	14,779	15,709	17,038	13,705
	Kennedy Park	1,085	11,668	11,998	12,447	13,096	13,780	13,641
	Kensington-Chinatown	1,041	18,059	18,484	19,423	21,801	21,791	15,975
	Kingsview Village-The Westway	1,188	17,363	15,892	18,717	20,238	21,627	19,345
	Kingsway South	698	36,961	39,325	38,999	42,461	43,638	41,984
	Lambton Baby Point	438	28,162	29,324	32,393	31,779	36,473	23,753
	LAmoreaux	2,732	13,830	13,507	14,325	15,869	15,845	16,643
	Lansing-Westgate	1,641	22,118	20,876	23,998	25,867	29,185	30,442
	Lawrence Park North	1,412	33,575	31,251	33,373	40,765	45,145	44,833
	Lawrence Park South	1,066	39,955	37,871	36,021	43,746	47,379	51,913
	Leaside	1,242	37,071	38,547	39,613	41,585	44,206	39,825
	Little Portugal	559	22,558	22,623	24,177	26,480	27,950	27,123
	Long Branch	782	19,162	18,763	19,274	21,728	22,301	26,173
	Malvern	3,113	11,160	11,293	11,381	12,308	12,602	12,633
	Maple Leaf	268	21,012	21,836	22,265	22,603	24,600	23,399
	Markland Wood	717	20,832	19,112	19,775	21,747	23,267	21,039
	Milliken	1,823	13,426	13,204	13,946	15,403	17,585	16,531
	Mimico	3,726	17,940	18,138	18,983	20,981	21,756	20,275
	Morningside	1,066	12,813	12,376	13,315	13,863	14,328	13,630
	Moss Park	1,929	18,481	17,974	19,124	19,831	21,913	22,590
	Mount Dennis	780	11,831	11,698	12,262	13,455	13,372	11,535
	Mount Olive-Silverstone-Jamestown	1,703	10,136	9,943	9,908	10,928	11,811	11,758
	Mount Pleasant East	1,371	32,417	32,702	33,589	37,474	40,746	43,320
	Mount Pleasant West	2,277	21,324	20,844	22,013	25,277	25,566	23,753
	New Toronto	816	18,426	18,296	18,086	20,154	20,129	16,325
	Newtonbrook East	1,884	20,973	20,362	23,313	23,469	28,386	29,145
	Newtonbrook West	2,057	19,441	20,394	20,695	23,476	26,608	27,656
	Niagara	5,642	15,895	16,826	17,182	18,648	19,525	20,569
	North Riverdale	703	28,914	32,720	31,775	34,552	39,432	41,321
	North St. James Town	404	23,146	24,829	24,088	22,166	22,569	24,127
	Oakridge	475	13,361	13,587	14,728	15,621	16,116	14,254
	Oakwood-Vaughan	1,271	18,094	19,116	19,705	20,486	21,998	22,811
	OConnor-Parkview	784	19,398	19,406	20,913	21,816	25,658	28,486
	Palmerston-Little Italy	671	30,411	28,661	28,447	31,641	37,120	36,096
	Parkwoods-Donalda	1,293	20,692	19,482	19,433	21,421	24,211	23,641
	Playter Estates-Danforth	363	30,581	33,716	32,053	37,477	37,693	46,586
	Pleasant View	973	16,602	16,694	16,592	17,528	20,920	18,932
	Princess-Rosethorn	669	36,779	36,471	38,114	42,155	45,829	46,810
	Regent Park	251	22,418	19,216	19,325	19,777	22,689	20,069
	Rexdale-Kipling	418	15,879	16,132	16,159	17,582	18,336	18,841
	Rockcliffe-Smythe	1,453	14,056	14,378	15,263	16,293	16,697	16,485
	Roncesvalles	934	23,703	23,566	23,910	26,151	27,942	32,597
	Rosedale-Moore Park	1,820	31,960	30,532	31,204	35,775	40,139	47,864
	Rouge E10	580	17,875	18,156	19,702	21,492	22,716	22,939
	Rouge E11	2,215	16,199	15,709	16,663	17,935	18,983	16,837
	Runnymede-Bloor West Village	804	26,027	27,504	28,774	30,017	32,243	29,569
	Rustic	195	20,697	20,588	22,337	21,509	23,400	23,950
	Scarborough Village	779	15,533	13,756	14,742	15,003	17,954	18,540
	South Parkdale	590	19,036	20,812	21,945	24,347	23,609	15,875
	South Riverdale	2,462	19,959	21,482	22,482	23,366	25,187	25,375
	St. Andrew-Windfields	1,338	37,053	35,831	38,484	41,519	45,233	41,247
	Steeles	1,677	15,542	15,477	15,905	17,155	19,998	19,194
	Stonegate-Queensway	1,765	26,811	27,465	28,092	30,363	33,000	33,056
	Tam OShanter-Sullivan	1,413	16,068	15,232	16,034	17,442	18,910	15,137
	The Beaches	2,065	29,448	29,234	31,125	36,132	36,537	37,772
	Thistletown-Beaumonde Heights	453	16,066	17,102	18,126	17,135	19,631	25,680
	Thorncliffe Park	302	12,136	12,484	13,061	13,478	14,277	12,536
	Trinity-Bellwoods	953	25,015	26,870	27,712	29,282	31,816	32,848
	University	317	33,874	29,230	33,916	36,497	34,656	31,675

Exhibit 2e
Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Victoria Village	821	14,641	13,330	13,985	15,815	17,143	20,106
	Waterfront Communities C1	8,630	16,693	17,580	18,188	18,976	20,620	20,761
	Waterfront Communities C8	1,001	14,139	16,615	18,312	21,693	19,820	20,398
	West Hill	1,543	13,155	13,353	13,465	14,854	15,162	18,905
	West Humber-Clairville	2,083	13,866	13,781	14,129	14,465	15,362	14,307
	Westminster-Branson	1,336	15,854	15,235	15,406	16,510	17,798	19,763
	Weston	1,154	13,347	12,934	13,012	13,935	15,227	14,276
	Weston-Pellam Park	824	14,361	14,513	14,822	16,786	18,240	18,417
	Wexford-Maryvale	1,345	15,618	16,062	16,860	18,453	20,055	20,912
	Willowdale East	8,347	17,986	17,995	20,089	22,859	24,711	27,200
	Willowdale West	2,052	20,159	19,356	21,373	22,942	24,314	28,232
	Willowridge-Martingrove-Richview	830	21,992	21,788	21,708	24,192	25,044	25,565
	Woburn	3,500	11,958	11,936	12,785	13,853	14,938	14,648
	Woodbine Corridor	1,001	19,590	21,148	21,226	24,106	24,611	25,027
	Woodbine-Lumsden	836	16,273	17,787	18,265	19,552	19,992	25,074
	Wychwood	636	25,045	25,627	25,503	26,782	30,614	35,808
	Yonge-Eglinton	593	38,773	38,652	39,352	40,632	41,590	50,880
	Yonge-St. Clair	987	32,733	34,907	34,449	41,161	41,804	34,290
	York University Heights	1,190	14,731	13,417	15,231	18,101	18,116	15,238
	Yorkdale-Glen Park	638	19,266	17,839	20,313	21,617	23,487	24,477
York	Aileen-Willowbrook	1,025	17,238	18,522	18,324	20,744	20,968	19,655
	Angus Glen	300	23,979	27,407	28,192	33,563	37,541	45,413
	Armitage	294	18,419	17,929	17,548	19,515	20,750	25,142
	Aurora Estates	231	33,191	34,533	37,824	42,136	41,103	50,223
	Aurora Grove	312	17,061	16,997	17,501	18,959	18,629	19,583
	Aurora Heights	437	18,165	17,515	18,463	19,994	21,215	22,675
	Aurora Highlands	1,101	21,129	22,616	21,172	23,243	25,983	30,825
	Aurora Village	553	19,527	20,454	19,648	20,237	22,058	24,061
	Baldwin	204	15,468	16,434	16,050	16,698	18,387	17,533
	Ballantrae	267	26,982	26,795	28,794	29,966	29,587	34,821
	Bayview Fairway-Bayview Country Club Estates	252	23,356	18,680	25,081	25,114	25,011	25,685
	Bayview Glen	159	42,485	39,344	47,215	48,806	61,095	65,620
	Bayview Hill	666	41,532	42,718	44,140	52,698	60,147	67,196
	Bayview Northeast	633	18,385	19,354	20,454	23,438	25,940	29,495
	Bayview Southeast	45	46,769		62,165	55,813	47,574	45,000
	Bayview Wellington	944	16,768	17,323	16,764	18,724	19,998	23,670
	Beaver Creek Business Park	216	11,800	12,363	13,371	13,038	14,797	13,894
	Belhaven	65	21,552	18,823	20,940	15,301	24,058	26,250
	Berczy	1,433	18,932	20,358	21,373	23,749	25,653	25,641
	Beverley Glen	1,013	20,038	21,020	21,830	22,418	24,307	27,355
	Box Grove	488	22,020	22,678	23,275	25,289	27,904	29,833
	Bristol-London	778	14,991	15,842	15,290	17,068	18,374	18,492
	Brownridge	1,267	19,159	19,820	19,630	22,055	23,017	23,254
	Bullock	273	19,519	19,032	20,882	23,292	24,539	26,105
	Buttonville	320	23,999	23,880	26,577	27,872	32,335	37,014
	Cachet	693	28,049	27,320	31,057	33,775	35,897	50,341
	Cathedraltown	204	23,770	25,582	23,250	27,180	29,432	28,634
	Cedar Grove	24		29,500	27,403	24,324	23,382	
	Cedarwood	304	16,449	16,554	17,249	20,522	21,929	24,697
	Central Newmarket	1,023	13,894	14,496	14,033	14,894	16,773	18,329
	Commerce Valley	1,168	12,061	12,570	13,527	14,457	15,143	15,572
	Concord	153	19,554	19,836	20,206	25,297	26,509	18,250
	Cornell	1,527	16,777	17,539	17,912	19,435	20,719	22,116
	Crestwood-Springfarm-Yorkhill	1,770	19,239	20,431	19,993	22,400	24,287	27,748
	Crosby	967	16,083	16,765	17,527	19,020	21,593	22,973
	Devils Elbow	113	52,613	48,520	48,446	59,332	59,209	
	Devonsleigh	743	21,865	21,592	22,761	24,705	26,814	26,457
	Doncrest	677	25,071	23,363	26,436	30,626	31,594	27,598
	East Woodbridge	1,376	23,625	25,918	24,263	27,962	28,051	29,398
	Elder Mills	132	23,069	24,671	22,938	25,877	27,723	27,140
	Georgina Island	14			10,603	15,183	16,020	
	German Mills	384	19,617	20,718	20,423	24,480	28,174	22,833
	Glen Shields	308	19,226	19,664	19,208	19,891	23,315	23,929
	Glenway Estates	274	22,458	22,349	23,023	25,792	25,970	29,532
	Gorham-College Manor	938	16,450	16,089	15,959	17,460	19,463	18,460
	Grandview	261	30,289	30,936	31,652	38,057	37,837	38,230
	Greensborough	1,345	18,191	18,017	18,862	20,931	21,806	25,675
	Harding	1,023	15,075	15,603	16,210	17,290	19,870	19,307

Exhibit 2e
Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Headford Business Park	3					41,975	
	Hills of St Andrew	217	31,237	39,033	34,240	34,889	40,211	43,075
	Historic Lakeshore Communities	712	13,692	13,907	13,514	15,870	14,772	16,677
	Holland Landing	486	16,999	17,464	16,893	18,308	19,439	15,157
	Huron Heights-Leslie Valley	568	15,868	15,423	15,914	17,185	18,210	19,615
	Islington Woods	444	29,745	30,382	29,145	32,619	37,889	31,396
	Jefferson	1,282	23,820	25,359	26,735	28,072	31,555	30,828
	Keswick North	914	13,006	13,791	13,261	14,340	14,575	17,740
	Keswick South	1,463	12,227	12,538	12,603	13,069	13,686	13,506
	King City	308	33,701	35,137	31,150	32,326	38,383	44,760
	Kleinburg	275	41,437	41,538	34,530	43,220	48,658	
	Lakeview Estates	497	18,412	17,334	19,011	17,757	18,741	20,168
	Langstaff	2,423	16,584	16,747	17,212	18,911	21,396	22,475
	Langstaff South	2			27,250	34,000		
	Legacy	184	22,950	24,455	24,713	29,612	29,686	28,513
	Maple	2,486	19,634	20,313	20,359	22,254	22,555	23,633
	Markham Village	733	20,237	21,389	22,027	24,964	25,849	27,531
	Markville	611	20,265	20,899	22,536	25,065	26,692	23,043
	Middlefield	1,208	17,318	18,216	18,622	20,444	23,248	23,483
	Mill Pond	806	22,490	24,772	25,384	27,020	31,612	36,554
	Milliken Mills East	1,407	18,844	19,970	19,824	22,560	24,290	22,387
	Milliken Mills West	480	17,938	19,043	19,671	21,668	22,602	23,198
	Mt Albert	409	15,488	16,180	15,118	15,442	16,737	16,691
	Newmarket Industrial Park	8	14,933				29,000	41,250
	Nobleton	199	29,370	29,763	27,417	30,563	34,403	24,080
	North Richvale	1,399	18,641	18,777	20,022	21,570	26,100	26,027
	Oak Ridges	1,592	21,966	23,358	23,785	25,949	29,177	31,492
	Oak Ridges Lake Wilcox	1,310	22,520	22,555	23,241	25,420	27,646	30,635
	Observatory	709	16,366	16,260	19,033	20,620	21,994	17,339
	Old Markham Village	236	16,958	19,094	18,001	21,203	21,425	21,867
	Patterson	3,595	22,993	24,749	25,698	28,392	31,558	34,727
	Pefferlaw	330	14,042	12,377	12,867	13,356	14,307	20,012
	Pottageville	120	28,286	30,717	25,369	27,515	28,246	
	Queensville	46	21,040	18,625	21,283	26,315	25,667	25,275
	Raymerville	540	18,809	19,463	19,710	21,577	24,188	27,685
	Rouge Fairways	138	26,261	22,860	26,108	30,111	31,836	32,000
	Rouge River Estates	156	19,659	22,691	22,373	26,220	24,982	33,375
	Rouge Woods	1,621	21,542	22,952	23,288	26,378	29,765	30,518
	Royal Orchard	730	19,011	19,418	20,352	22,962	23,910	29,252
	Rural East Gwillimbury	311	23,701	24,909	23,083	29,065	27,388	27,911
	Rural King	498	31,830	33,265	34,472	34,849	37,010	34,527
	Rural Markham	78	25,638	30,041	40,629	30,893	30,676	32,450
	Rural Richmond Hill	107	36,030	37,330	42,377	44,101	51,222	61,000
	Rural Vaughan	460	23,381	24,781	29,411	27,011	33,729	40,119
	Rural Whitchurch-Stouffville	764	32,765	31,817	31,623	37,643	38,646	45,957
	Schomberg	136	19,819	19,169	17,191	21,238	22,837	23,258
	Sharon	197	24,988	27,998	25,654	27,604	29,418	30,684
	Sherwood-Amberglen	202	21,877	21,370	23,205	23,426	25,526	28,952
	Sonoma Heights	1,003	21,635	22,336	22,837	24,328	26,544	27,525
	South Richvale	472	34,806	36,526	38,281	40,894	45,910	47,280
	Steeles West Industrial	3		12,875	16,175			
	Stonehaven-Wyndham	893	22,885	23,323	23,148	23,965	27,587	25,139
	Stouffville	1,878	18,136	18,246	19,273	20,282	21,847	24,882
	Summerhill Estates	1,242	16,598	16,750	17,338	18,703	19,806	19,476
	Sutton & Jacksons Point	610	12,916	12,293	14,030	13,099	13,092	13,060
	Thornhill	468	21,987	18,991	25,327	23,547	27,572	30,014
	Thornlea	270	28,358	30,923	31,054	36,660	40,605	41,600
	Unionville	2,554	24,871	25,959	22,520	25,461	25,456	23,630
	Uplands	382	31,854	31,080	32,253	36,838	44,326	48,634
	Vaughan Grove	86	19,990	19,572	21,542	22,902	19,689	18,897
	Vellore Village	3,338	20,635	21,632	22,046	24,414	26,594	27,931
	Victoria Manor-Jennings Gate	251	23,861	24,240	24,914	30,976	32,546	33,692
	Victoria Square	84	23,639	36,675	28,546	26,231	29,763	31,815
	Village Green-South Unionville	605	20,118	18,852	20,820	24,623	25,673	31,682
	Vinegar Hill	122	19,600	19,215	18,442	19,265	22,645	28,263
	Virginia	215	14,599	14,761	18,015	15,854	15,770	21,500
	West Woodbridge	949	20,244	20,078	19,606	21,058	22,770	21,719
	West Woodbridge Industrial Area	3	15,975			12,445	14,750	

Exhibit 2e
Average Estimated Overall Commission*, by Community

Area	Community	# of Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan-Feb)
	Westbrook	1,195	23,926	24,575	25,103	27,435	29,927	33,800
	Wismer	1,198	18,864	19,641	21,339	23,075	25,134	25,618
	Woodland Hill	909	16,582	17,317	17,294	19,092	21,343	21,633

Source: MLS Data; sold transactions.

Notes

* Overall commission is based on the assumption that the commission is split equally between the sell-side and the buy-side agents

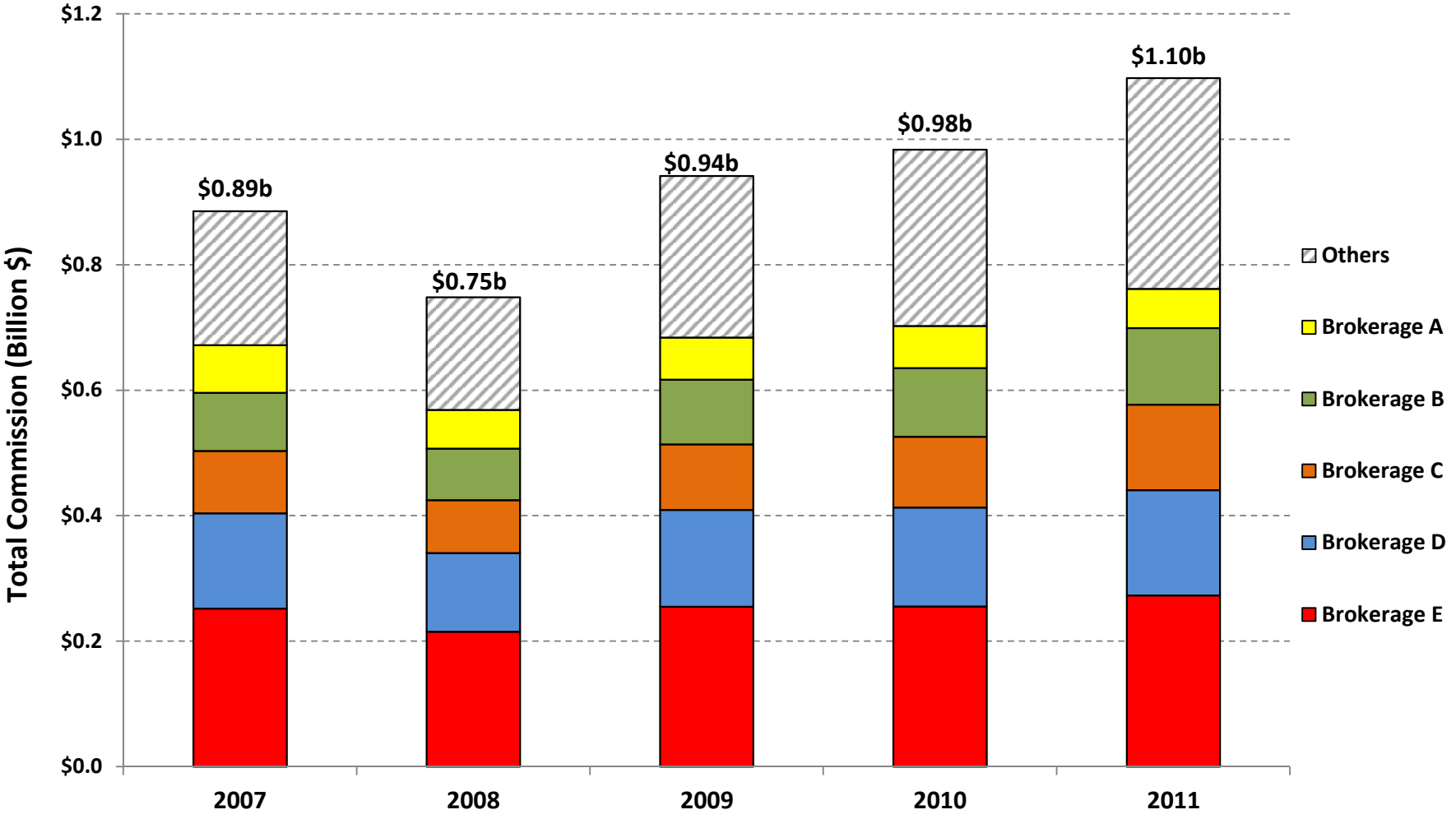
Buy-side commissions based on MLS data showing buy-side commission offers.

Analysis based on communities, as identified in the MLS dataset.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 3a
Buy-Side Commissions in the Greater Toronto Area, by Corporate Brokerage

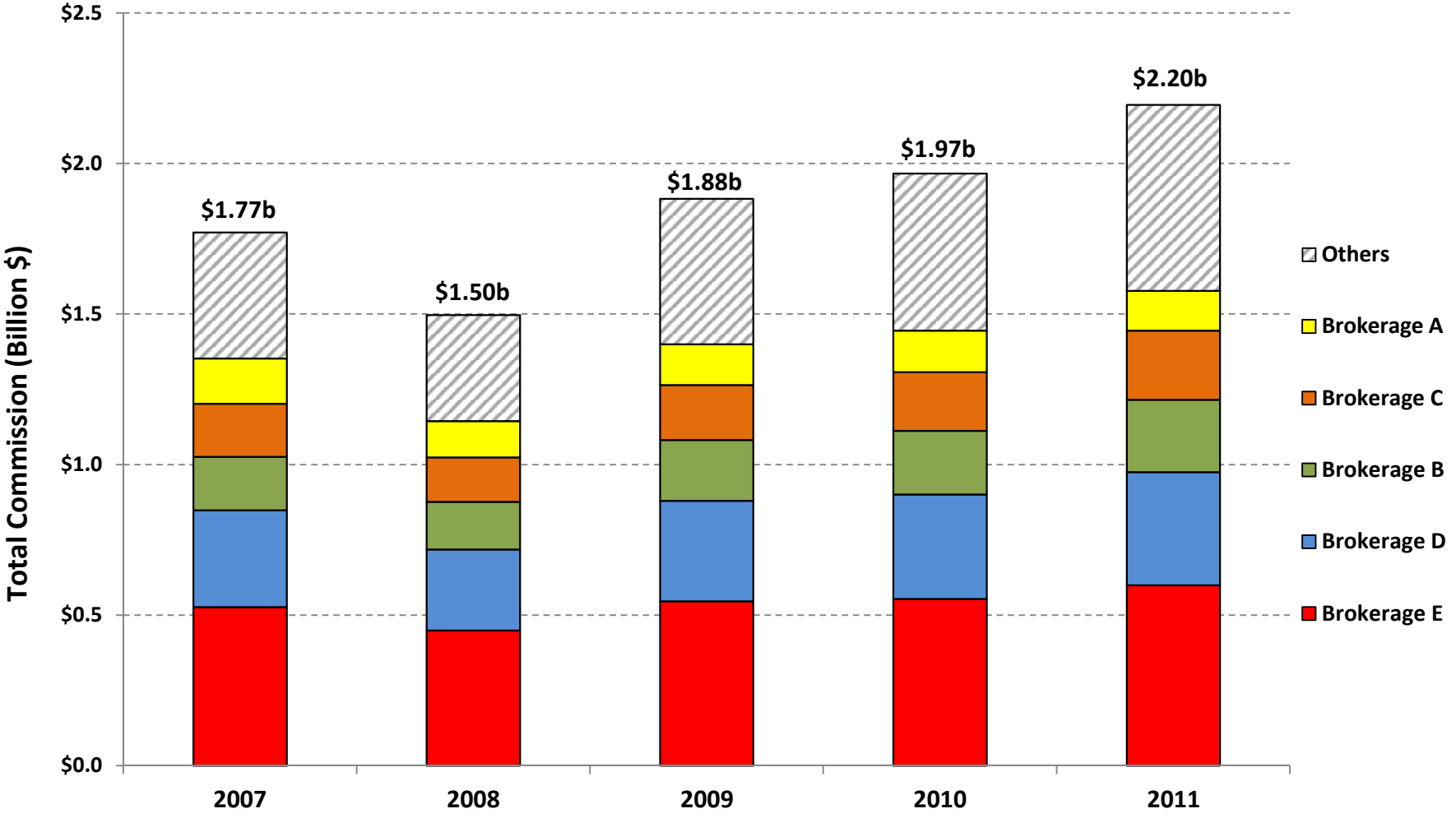


Source: MLS data; sold transactions.

Notes: Buy-side commissions based on MLS data showing buy-side commission offers. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

[redacted]

Exhibit 3b
Estimated Overall Commissions in the Greater Toronto Area, by Corporate Brokerage



Source: MLS data; sold transactions.

Notes: Overall commission is based on the assumption that the commission is split equally between the sell-side and buy-side agents. Buy-side commissions based on MLS data showing buy-side commission offers. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

[redacted]

Exhibit 3c

Commissions by Corporate Brokerage in the Greater Toronto Area

Buy-Side Commissions:

Rank	Brokerage	2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007-2012
1	Brokerage E	28.5%	28.7%	27.1%	26.0%	24.9%	23.6%	26.8%
2	Brokerage D	17.1%	16.8%	16.4%	16.0%	15.3%	14.9%	16.2%
3	Brokerage C	11.2%	11.3%	11.1%	11.4%	12.4%	12.1%	11.6%
4	Brokerage B	10.5%	11.0%	11.0%	11.1%	11.1%	11.8%	11.0%
5	Brokerage A	8.6%	8.2%	7.1%	6.8%	5.7%	6.3%	7.2%
6	Not-Available	1.8%	2.2%	4.5%	3.9%	4.1%	4.8%	3.4%
7	Brokerage G	1.7%	2.0%	2.5%	2.8%	3.1%	3.5%	2.5%
8	Brokerage H	1.9%	1.7%	1.3%	1.4%	1.2%	1.0%	1.5%
9	Brokerage I	1.9%	1.7%	1.5%	1.1%	1.0%	0.5%	1.4%
10	Brokerage J	0.8%	1.1%	1.3%	1.6%	1.8%	1.9%	1.4%
11	Brokerage K	1.4%	1.1%	1.4%	1.4%	1.2%	1.3%	1.3%
12	Brokerage L	1.3%	1.1%	1.1%	1.0%	1.1%	0.5%	1.1%
13	Brokerage M	1.3%	1.1%	0.9%	0.9%	0.8%	0.9%	1.0%
14	Brokerage N	0.5%	0.6%	0.8%	0.9%	1.2%	1.3%	0.8%
15	Brokerage O	0.3%	0.5%	0.6%	0.8%	1.1%	0.8%	0.7%
	Others	11.3%	11.0%	11.4%	12.6%	14.1%	14.7%	12.2%
	Total	$885,475,580	$748,447,988	$941,684,309	$983,567,214	$1,097,596,661	$102,003,663	$4,758,775,415

Estimated Overall Commissions*:

Rank	Brokerage	2007	2008	2009	2010	2011	2012 (Jan-Feb)	2007-2012
1	Brokerage E	29.8%	30.0%	29.0%	28.2%	27.3%	26.8%	28.7%
2	Brokerage D	18.1%	17.9%	17.7%	17.7%	17.1%	16.3%	17.6%
3	Brokerage B	10.0%	10.6%	10.7%	10.7%	10.9%	11.7%	10.6%
4	Brokerage C	10.0%	9.9%	9.7%	9.9%	10.5%	10.3%	10.0%
5	Brokerage A	8.5%	8.1%	7.2%	7.0%	6.0%	6.3%	7.2%
6	Brokerage G	1.4%	1.6%	2.2%	2.4%	2.8%	2.9%	2.2%
7	Not-Available	0.9%	1.1%	2.2%	2.0%	2.1%	2.4%	1.7%
8	Brokerage H	1.9%	1.8%	1.4%	1.6%	1.3%	1.1%	1.6%
9	Brokerage I	2.0%	1.9%	1.7%	1.2%	1.1%	0.7%	1.5%
10	Brokerage K	1.5%	1.4%	1.6%	1.6%	1.4%	1.6%	1.5%
11	Brokerage J	0.8%	1.1%	1.3%	1.6%	1.9%	2.0%	1.4%
12	Brokerage L	1.3%	1.1%	1.1%	1.0%	1.0%	0.6%	1.1%
13	Brokerage M	1.3%	1.1%	0.9%	0.9%	0.9%	0.8%	1.0%
14	Brokerage P	0.7%	0.6%	0.6%	0.6%	0.6%	0.5%	0.6%
15	Brokerage N	0.3%	0.4%	0.5%	0.6%	0.8%	0.8%	0.5%
	Others	11.5%	11.4%	12.1%	13.0%	14.4%	15.2%	12.7%
	Total	$1,770,951,161	$1,496,895,976	$1,883,368,618	$1,967,134,427	$2,195,193,322	$204,007,326	$9,517,550,830

Source: MLS data; sold transactions.

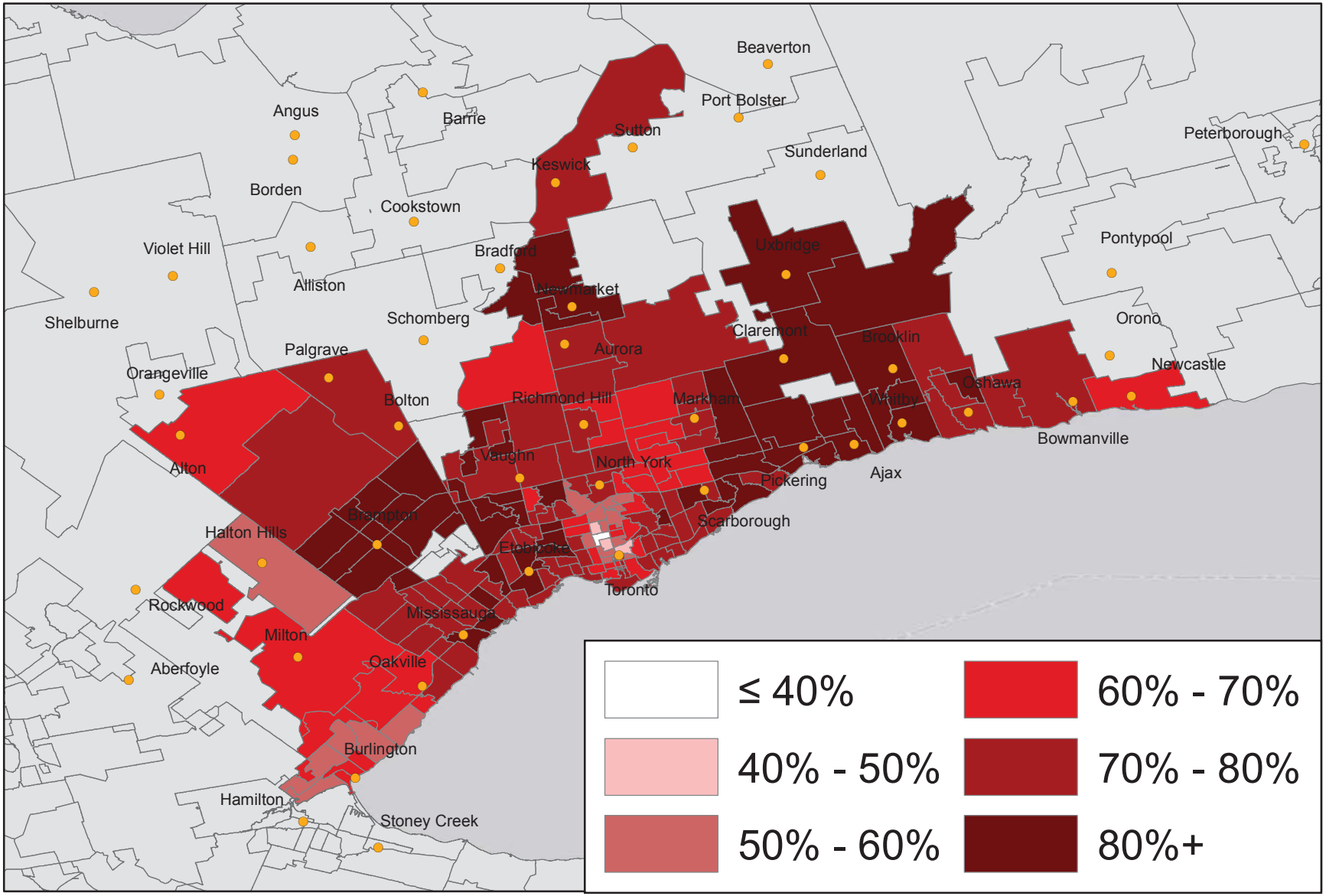
Notes

* Overall commission is based on the assumption that the commission is split equally between the sell-side and buy-side agents. Buy-side commissions based on MLS data showing buy-side commission offers. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Realogy comprises Century 21, Coldwell , and Sotheby's.

"Not-Available" indicates brokers that are either missing or reported as "NON-TREB BOARD OFFICE". Such cases occur mainly on the buy-side. "Not-Available" brokers are treated as a single broker in calculating shares.

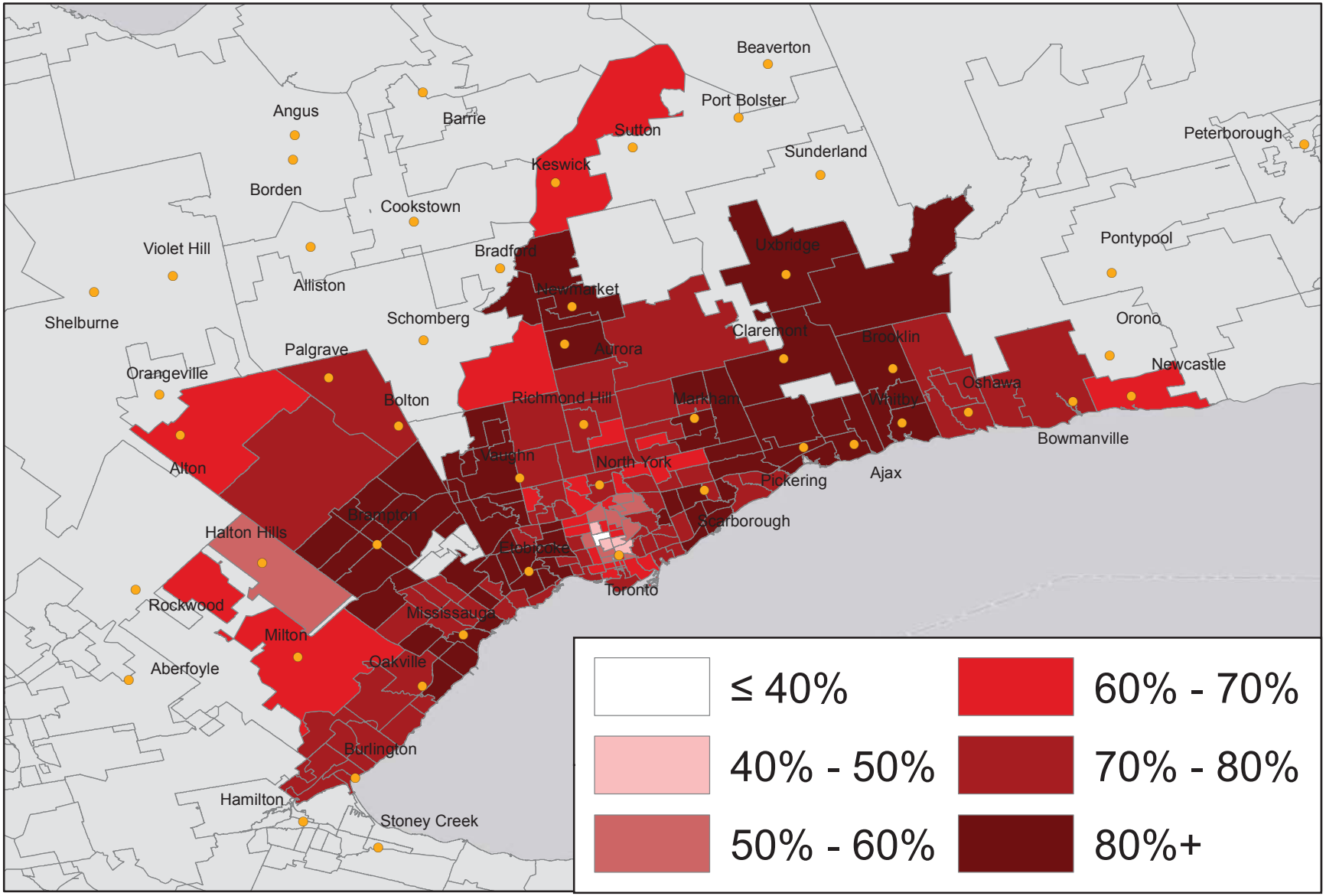
Exhibit 4a: Share of Buy-Side Commission across Postal FSAs
Top Five Corporate Brokerages in the GTA



Notes:
1) Top brokerages identified based on commissions in the GTA. They are Re/Max, Royal LePage, Realogy, HomeLife, and Sutton Group. Realogy comprises Century 21, Coldwell, and Sotheby's.
2) Map by postal FSA in the Greater Toronto Area.
3) Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.
4) FSAs with fewer than 50 transactions excluded (they represent less than 0.5% of all transactions).
Rural FSAs (i.e., FSAs with zero as their second character) excluded (they represent less than 1.5% of all transactions).

Source: MLS data; sold transactions.

Exhibit 4b: Share of Estimated Overall Commission across Postal FSAs
Top Five Corporate Brokerages in the GTA



Notes:
1) Overall commission is based on the assumption that the commission is split equally between the sell-side and the buy-side agents.
2) Top brokerages identified based on commissions in the GTA. They are Re/Max, Royal LePage, Realogy, HomeLife, and Sutton Group. Realogy comprises Century 21, Coldwell, and Sotheby's.
3) Map by postal FSA in the Greater Toronto Area.
4) Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.
5) FSAs with fewer than 50 transactions excluded (they represent less than 0.5% of all transactions).
Rural FSAs (i.e., FSAs with zero as their second character) excluded (they represent less than 1.5% of all transactions).

Source: MLS data; sold transactions.

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

		# of Sales	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
Area	Community	Jan 07-Feb 12	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
Durham	Amberlea	983	38%	15%	16%	9%	6%	84%	39%	16%	16%	7%	8%	86%
	Bay Ridges	600	36%	16%	14%	5%	11%	81%	38%	14%	16%	4%	11%	82%
	Beaverton	370	36%	7%	36%	2%	5%	87%	38%	7%	39%	1%	6%	91%
	Blackstock	68	41%	9%	25%	2%	11%	88%	41%	9%	26%	2%	8%	86%
	Blue Grass Meadows	961	40%	12%	16%	6%	10%	83%	42%	13%	14%	5%	10%	84%
	Bowmanville	3,971	42%	13%	9%	3%	7%	74%	43%	13%	8%	3%	7%	74%
	Brock Industrial	2	100%					100%	100%					100%
	Brock Ridge	537	36%	8%	21%	13%	7%	84%	36%	8%	21%	10%	8%	84%
	Brooklin	1,732	38%	16%	11%	2%	17%	83%	40%	13%	9%	1%	18%	82%
	Cannington	214	35%	8%	17%	0%	22%	83%	40%	6%	18%	0%	21%	86%
	Centennial	1,074	38%	15%	12%	2%	9%	76%	39%	14%	11%	2%	10%	76%
	Central - Ajax	1,660	35%	9%	20%	10%	8%	82%	38%	9%	20%	7%	10%	84%
	Central - Oshawa	1,043	42%	9%	13%	4%	9%	77%	43%	8%	12%	3%	9%	76%
	Central East	275	39%	8%	20%	13%	3%	84%	37%	9%	19%	8%	5%	79%
	Central West	1,685	36%	10%	20%	11%	9%	86%	39%	10%	19%	7%	11%	86%
	Columbus	22	19%	20%	9%		6%	54%	21%	22%	10%		12%	66%
	Courtice	2,286	44%	12%	9%	2%	9%	77%	44%	11%	9%	2%	9%	75%
	Donevan	1,067	43%	10%	14%	3%	9%	79%	44%	10%	12%	3%	9%	79%
	Downtown Whitby	951	37%	19%	14%	3%	10%	83%	37%	20%	13%	3%	9%	83%
	Duffin Heights	6	13%	21%	37%		18%	89%	7%	10%	37%	9%	19%	82%
	Dunbarton	178	34%	12%	18%	7%	11%	84%	39%	11%	18%	6%	13%	87%
	Eastdale	1,044	41%	13%	14%	4%	8%	80%	44%	11%	12%	3%	8%	78%
	Farewell	94	39%	10%	15%	5%	12%	80%	41%	9%	11%	3%	9%	74%
	Highbush	505	34%	11%	21%	10%	9%	85%	38%	11%	22%	8%	8%	86%
	Kedron	82	40%	15%	10%	2%	13%	80%	42%	12%	13%	5%	11%	83%
	Lakeview - Oshawa	1,328	43%	8%	12%	4%	9%	76%	42%	9%	13%	3%	10%	76%
	Liverpool	1,256	41%	14%	17%	7%	7%	87%	43%	14%	17%	6%	8%	88%
	Lynde Creek	776	37%	17%	15%	4%	12%	84%	40%	18%	13%	3%	11%	85%
	McLaughlin	868	40%	15%	14%	3%	10%	82%	40%	15%	13%	3%	9%	80%
	Newcastle	734	35%	19%	5%	3%	9%	70%	31%	22%	5%	3%	8%	69%
	Northeast Ajax	1,011	33%	8%	20%	14%	7%	82%	32%	10%	20%	10%	9%	81%
	Northglen	343	43%	14%	12%	3%	12%	84%	42%	16%	9%	2%	11%	81%
	Northwest Ajax	1,190	37%	9%	22%	14%	5%	87%	38%	10%	19%	10%	7%	84%
	Northwood	13	10%	29%	11%	17%	10%	77%	35%	23%	6%	8%	5%	77%
	ONeill	1,255	40%	13%	12%	2%	11%	79%	41%	13%	13%	1%	10%	78%
	Orono	92	30%	18%	10%	1%	9%	68%	29%	19%	10%	1%	7%	65%
	Pinecrest	1,108	40%	12%	13%	4%	12%	81%	39%	12%	12%	4%	11%	78%
	Port Perry	752	31%	10%	32%	0%	15%	88%	30%	9%	35%	1%	13%	88%
	Port Whitby	686	42%	17%	10%	3%	16%	88%	46%	14%	9%	3%	15%	87%
	Pringle Creek	1,895	38%	12%	16%	4%	12%	83%	39%	15%	14%	4%	11%	83%
	Raglan	20	51%	12%	18%		6%	87%	40%	16%	14%		13%	82%
	Rolling Acres	1,176	39%	12%	17%	6%	10%	84%	41%	11%	14%	6%	10%	82%
	Rosebank	163	31%	10%	26%	6%	12%	86%	36%	9%	22%	4%	14%	85%
	Rouge Park	96	32%	16%	19%	18%	5%	89%	37%	20%	16%	11%	4%	88%
	Rougemount	202	35%	17%	17%	6%	7%	82%	35%	22%	16%	4%	8%	86%
	Rural Brock	274	37%	13%	23%	1%	15%	88%	43%	13%	19%	1%	14%	89%
	Rural Clarington	820	35%	17%	8%	3%	8%	71%	38%	18%	7%	2%	6%	71%
	Rural Oshawa	47	34%	16%	26%		11%	87%	33%	18%	16%		17%	83%
	Rural Pickering	234	40%	13%	17%	3%	14%	87%	38%	10%	18%	2%	18%	85%
	Rural Scugog	873	33%	10%	22%	1%	12%	79%	36%	11%	23%	1%	10%	81%
	Rural Uxbridge	566	37%	17%	11%	2%	11%	77%	39%	15%	9%	1%	11%	75%
	Rural Whitby	166	34%	18%	15%	2%	11%	80%	36%	21%	12%	2%	12%	83%
	Samac	1,248	40%	10%	15%	6%	8%	79%	42%	9%	13%	5%	9%	79%
	South East	1,926	40%	12%	15%	6%	12%	86%	42%	12%	15%	4%	12%	86%
	South West	883	38%	13%	15%	5%	14%	85%	36%	16%	14%	4%	15%	84%
	Stevenson	22	39%	20%	4%	6%	8%	76%	29%	17%	13%	5%	10%	74%
	Sunderland	105	43%	7%	14%		11%	75%	50%	4%	16%		9%	79%
	Taunton	569	44%	12%	12%	6%	7%	82%	45%	11%	12%	5%	8%	81%
	Taunton North	720	39%	13%	13%	5%	11%	81%	40%	13%	12%	4%	10%	79%
	Town Centre	625	37%	15%	17%	6%	10%	85%	40%	14%	17%	5%	11%	88%
	Uxbridge	974	47%	12%	9%	1%	15%	84%	51%	11%	8%	1%	15%	85%
	Vanier	893	42%	9%	12%	3%	11%	77%	42%	9%	13%	3%	11%	78%
	Village East	671	35%	11%	20%	8%	13%	86%	37%	10%	19%	7%	13%	86%
	West Shore	518	42%	16%	15%	3%	8%	84%	44%	14%	15%	3%	9%	85%
	Whitby Industrial	9	23%	27%			10%	60%	25%	30%	4%	3%	5%	67%
	Williamsburg	1,345	35%	14%	15%	6%	12%	81%	35%	12%	12%	5%	16%	81%
	Windfields	170	34%	9%	23%	6%	7%	79%	36%	10%	17%	5%	9%	77%
	Woodlands	188	40%	12%	14%	13%	4%	83%	38%	11%	16%	10%	7%	83%
Halton	401 Business Park	23	20%	7%	7%	3%	3%	40%	20%	17%	8%	2%	12%	59%
	Acton	1,012	37%	17%	3%	1%	2%	60%	37%	18%	3%	1%	2%	60%
	Alton - Burlington	639	18%	14%	10%	2%	6%	49%	21%	20%	11%	2%	6%	61%
	Appleby	1,056	22%	20%	10%	1%	6%	60%	24%	27%	13%	1%	7%	72%
	Bayview	170	22%	17%	5%		7%	50%	24%	32%	8%	1%	8%	72%
	Beaty	2,309	25%	19%	6%	5%	8%	62%	25%	23%	5%	3%	9%	65%
	Bowes	1				100%		100%				50%	50%	100%
	Brant	759	19%	30%	6%	0%	7%	63%	21%	40%	8%	0%	7%	76%
	Brant Hills	522	19%	17%	9%	1%	6%	52%	22%	27%	11%	2%	10%	71%
	Bronte East	1,011	18%	23%	12%	2%	4%	59%	24%	25%	18%	2%	4%	72%
	Bronte Meadows	507	30%	21%	3%	1%	3%	58%	34%	27%	3%	1%	3%	67%
	Bronte West	2,077	22%	24%	9%	1%	4%	60%	26%	30%	12%	1%	4%	72%
	Brookville	64	20%	28%	4%	2%	1%	55%	25%	33%	12%	1%	1%	72%
	Campbellville	94	37%	17%	5%		4%	63%	38%	28%	4%		3%	72%
	Clarke	1,411	23%	16%	6%	6%	7%	58%	26%	20%	5%	5%	7%	63%
	Clearview	520	33%	19%	5%	5%	8%	70%	39%	25%	5%	4%	7%	79%
	Coates	1,005	24%	15%	8%	6%	7%	60%	24%	18%	7%	5%	7%	61%
	Cobban	1					100%	100%					100%	100%
	College Park	1,056	22%	22%	11%	3%	6%	63%	27%	25%	13%	2%	6%	73%
	Dempsey	1,180	24%	20%	6%	5%	6%	61%	28%	23%	5%	4%	6%	66%

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

Area	Community	# of Sales	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
		Jan 07-Feb 12	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
	Derry Green Business Park	4	44%					44%	31%	15%				46%
	Dorset Park - Milton	454	24%	26%	2%	1%	2%	56%	31%	33%	2%	1%	1%	68%
	Eastlake	1,100	25%	29%	11%	1%	3%	69%	30%	31%	16%	0%	3%	80%
	Esquesing	7	35%	24%			9%	69%	22%	47%	11%		5%	84%
	Freeman	79	19%	20%	7%		7%	52%	26%	25%	9%	1%	8%	69%
	Georgetown	3,362	36%	16%	4%	1%	3%	60%	37%	15%	3%	1%	2%	59%
	Glen Abbey	1,978	19%	27%	9%	2%	4%	61%	24%	34%	12%	1%	4%	75%
	Glen Williams	91	35%	9%	1%	3%	2%	51%	30%	14%	1%	2%	1%	48%
	Grindstone	18	26%	9%	4%	4%	11%	53%	32%	27%	7%	4%	5%	75%
	Harrison	797	26%	20%	6%	3%	6%	61%	26%	21%	6%	2%	7%	63%
	Headon	644	21%	22%	7%	1%	9%	60%	24%	31%	9%	1%	9%	74%
	Iroquois Ridge North	1,475	22%	21%	5%	5%	5%	59%	28%	28%	8%	4%	5%	73%
	Iroquois Ridge South	752	23%	25%	5%	4%	6%	62%	33%	27%	5%	3%	5%	72%
	LaSalle	337	24%	24%	3%	0%	8%	60%	28%	35%	5%	0%	7%	75%
	Limehouse	12	49%	6%				55%	49%	3%				52%
	Milton Heights	25	15%	35%	4%	4%		58%	17%	43%	2%	3%	2%	68%
	Moffat	32	33%	12%	13%		13%	71%	26%	38%	10%		7%	82%
	Mountain View	100	34%	29%	3%	2%	4%	73%	41%	28%	3%	1%	3%	77%
	Mountainside	294	21%	22%	7%	1%	7%	57%	24%	28%	11%	1%	8%	72%
	Nassagaweya	259	28%	18%	7%	1%	4%	57%	31%	29%	8%	1%	4%	73%
	Nelson	75	33%	27%	5%		3%	67%	47%	27%	4%		2%	80%
	Old Milton	253	31%	25%	5%	0%	3%	64%	37%	32%	4%	0%	3%	75%
	Old Oakville	1,612	30%	25%	13%	1%	3%	71%	33%	27%	18%	1%	2%	81%
	Orchard	979	22%	23%	6%	2%	5%	58%	27%	29%	9%	2%	5%	71%
	Palermo West	911	24%	24%	7%	2%	3%	60%	30%	31%	8%	2%	3%	74%
	Palmer	352	17%	21%	8%	1%	6%	52%	21%	27%	12%	1%	7%	68%
	River Oaks	1,654	23%	26%	6%	2%	5%	63%	26%	33%	8%	2%	5%	74%
	Rose	718	22%	29%	7%	1%	5%	64%	25%	39%	9%	1%	4%	78%
	Roseland	457	19%	32%	4%	1%	5%	61%	20%	43%	7%	1%	5%	76%
	Rural Burlington	143	21%	29%	4%	0%	5%	61%	29%	38%	5%	0%	5%	77%
	Rural Halton Hills	520	30%	16%	6%	3%	7%	63%	32%	19%	6%	2%	5%	65%
	Rural Oakville	33	21%	24%	30%		4%	79%	23%	22%	36%	2%	3%	86%
	Scott	584	27%	16%	8%	6%	6%	62%	29%	19%	7%	5%	6%	66%
	Shoreacres	474	21%	25%	8%	0%	7%	62%	25%	33%	10%	1%	7%	75%
	Stewarttown	29	30%	19%	6%		2%	56%	25%	14%	4%	2%	2%	48%
	Tansley	433	21%	18%	7%	1%	6%	54%	24%	26%	10%	1%	7%	69%
	Timberlea	533	24%	27%	2%	4%	2%	58%	30%	32%	2%	2%	2%	68%
	Trafalgar	89	21%	20%	5%	3%	12%	61%	31%	27%	8%	2%	10%	77%
	Tyandaga	305	19%	28%	5%	0%	5%	56%	20%	41%	9%	0%	4%	74%
	Uptown	549	21%	18%	8%	1%	5%	53%	27%	22%	12%	2%	6%	68%
	Uptown Core	823	25%	22%	5%	3%	6%	61%	32%	26%	7%	2%	6%	73%
	Walker	34	33%	18%	19%	3%	2%	76%	30%	18%	17%	3%	10%	78%
	West Oak Trails	3,758	23%	22%	8%	2%	5%	60%	26%	29%	9%	2%	5%	72%
	Willmont	118	22%	15%	8%	6%	6%	57%	28%	15%	10%	4%	7%	64%
	Winston Park	2			34%			34%	33%		34%			67%
Peel	Airport Road/Hwy 7 Bus. Centre	1				100%		100%				100%		100%
	Alton - Caledon	63	29%	21%	5%		13%	67%	32%	19%	6%		14%	70%
	Applewood	1,982	26%	17%	6%	12%	16%	78%	28%	20%	5%	11%	17%	81%
	Avondale	579	30%	11%	14%	19%	8%	83%	34%	12%	14%	15%	7%	82%
	Bolton East	710	33%	24%	6%	8%	5%	76%	32%	28%	5%	7%	4%	75%
	Bolton North	598	31%	32%	7%	4%	5%	80%	28%	35%	6%	4%	4%	77%
	Bolton West	814	32%	25%	6%	8%	5%	76%	31%	28%	5%	7%	4%	75%
	Bram East	2,203	22%	7%	16%	35%	7%	86%	23%	10%	14%	33%	6%	85%
	Bram West	806	31%	11%	12%	19%	7%	81%	35%	12%	11%	16%	7%	82%
	Bramalea North Industrial	212	27%	7%	12%	36%	6%	88%	28%	8%	12%	32%	5%	85%
	Bramalea Road South Gateway	1				100%		100%	50%			50%		100%
	Bramalea South Industrial	3	100%					100%	84%					84%
	Bramalea West Industrial	124	34%	15%	12%	18%	7%	87%	33%	18%	10%	20%	7%	88%
	Brampton 407 Corridor	14	49%			14%	6%	70%	40%	11%		14%	7%	71%
	Brampton East	855	36%	16%	13%	8%	7%	80%	39%	18%	13%	6%	6%	83%
	Brampton North	1,527	35%	9%	13%	14%	9%	80%	36%	10%	12%	13%	9%	80%
	Brampton South	763	36%	15%	12%	11%	7%	80%	39%	14%	13%	9%	7%	81%
	Brampton West	1,369	33%	11%	13%	16%	9%	82%	34%	12%	11%	14%	9%	81%
	Caledon East	176	36%	26%	5%	3%	5%	73%	39%	23%	5%	2%	5%	74%
	Caledon Village	89	29%	23%	10%		12%	74%	31%	22%	7%		20%	80%
	Central Erin Mills	2,806	29%	18%	8%	9%	10%	74%	33%	20%	7%	7%	10%	78%
	Central Park	1,347	35%	10%	13%	16%	10%	83%	37%	11%	13%	13%	9%	83%
	Cheltenham	31	21%	23%	9%		13%	66%	18%	33%	7%		8%	65%
	Churchill Meadows	4,130	37%	16%	10%	9%	8%	79%	39%	15%	9%	8%	8%	80%
	City Centre	5,190	32%	14%	10%	11%	10%	77%	33%	15%	9%	11%	9%	77%
	Claireville Conservation	3		42%	20%		38%	100%		21%	20%	21%	38%	100%
	Clarkson	2,112	30%	25%	5%	4%	13%	77%	32%	27%	5%	3%	13%	80%
	Cooksville	2,942	30%	18%	8%	11%	13%	80%	32%	19%	8%	10%	12%	81%
	Credit Valley	744	33%	9%	14%	18%	7%	81%	32%	11%	12%	16%	7%	78%
	Creditview	818	27%	16%	10%	12%	13%	78%	29%	15%	14%	11%	11%	80%
	Dixie	71	41%	21%	2%	4%	4%	73%	43%	22%	4%	5%	4%	77%
	Downtown Brampton	720	33%	20%	10%	6%	6%	76%	36%	20%	11%	5%	5%	76%
	East Credit	4,061	34%	13%	11%	13%	8%	79%	35%	15%	9%	12%	9%	79%
	Erin Mills	3,090	30%	21%	7%	7%	13%	78%	33%	24%	6%	6%	12%	80%
	Erindale	1,691	29%	18%	6%	9%	11%	74%	32%	21%	5%	8%	12%	78%
	Fairview	1,030	26%	14%	12%	15%	10%	77%	28%	14%	11%	13%	11%	77%
	Fletchers Creek South	1,825	30%	8%	11%	29%	8%	87%	33%	9%	11%	27%	7%	86%
	Fletchers Creek Village	904	32%	8%	12%	23%	9%	84%	36%	9%	11%	18%	8%	82%
	Fletchers Meadow	5,512	32%	9%	13%	21%	7%	82%	35%	10%	11%	17%	7%	80%
	Fletchers West	1,340	28%	10%	12%	24%	9%	83%	31%	11%	11%	21%	9%	84%
	Gore Industrial North	217	22%	6%	17%	40%	8%	92%	27%	6%	14%	36%	7%	90%
	Goreway Drive Corridor	123	34%	9%	16%	13%	5%	78%	36%	11%	13%	10%	5%	74%
	Heart Lake	17	62%	11%	7%	5%	5%	91%	43%	19%	14%	9%	2%	88%

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

Area	Community	# of Sales	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
		Jan 07-Feb 12	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
	Heart Lake East	763	33%	13%	14%	12%	9%	81%	35%	13%	15%	10%	9%	81%
	Heart Lake West	1,261	34%	12%	17%	13%	7%	82%	38%	11%	15%	11%	6%	83%
	Highway 427	3	48%			52%		100%	24%	24%	17%	35%		100%
	Hurontario	5,325	31%	15%	10%	13%	10%	78%	34%	15%	9%	11%	10%	80%
	Huttonville	13	14%	38%	7%	9%		68%	18%	42%	7%	5%		72%
	Inglewood	53	42%	21%	5%	1%		70%	42%	16%	7%	1%	6%	72%
	Lakeview - Mississauga	1,652	29%	21%	6%	7%	14%	77%	30%	23%	5%	6%	15%	79%
	Lisgar	2,786	36%	17%	10%	9%	9%	80%	37%	19%	9%	8%	9%	81%
	Lorne Park	1,031	33%	33%	3%	3%	10%	82%	34%	37%	3%	2%	10%	87%
	Madoc	2,105	30%	10%	14%	21%	8%	83%	33%	9%	14%	20%	7%	83%
	Malton	2,117	25%	5%	15%	32%	9%	86%	29%	6%	14%	29%	8%	86%
	Mavis-Erindale	4						0%	44%					44%
	Meadowvale	3,271	34%	19%	7%	8%	10%	78%	36%	21%	7%	6%	9%	80%
	Meadowvale Business Park	55	29%	17%	3%	14%	13%	76%	31%	20%	5%	11%	9%	77%
	Meadowvale Village	2,685	36%	16%	9%	13%	8%	82%	37%	17%	8%	12%	9%	83%
	Mineola	782	32%	23%	4%	6%	18%	82%	33%	25%	3%	4%	20%	85%
	Mississauga Valleys	1,981	27%	19%	8%	12%	14%	80%	30%	19%	7%	11%	14%	81%
	Mono Mills	32	36%	20%	3%	3%	13%	74%	33%	22%	6%	2%	16%	78%
	Northeast	109	32%	13%	14%	23%	10%	92%	31%	15%	10%	23%	9%	89%
	Northgate	1,216	35%	12%	13%	15%	9%	84%	38%	12%	12%	12%	9%	83%
	Northwest Brampton	54	20%	7%	10%	15%	14%	67%	35%	7%	9%	16%	10%	76%
	Northwest Sandalwood Parkway	1,026	33%	11%	12%	18%	8%	83%	38%	11%	11%	15%	7%	82%
	Northwood Park	750	32%	11%	13%	13%	9%	78%	35%	11%	12%	13%	8%	79%
	Palgrave	235	30%	37%	6%	2%	3%	79%	25%	45%	4%	3%	2%	79%
	Parkway Belt Industrial Area	2	47%					47%	23%		27%		23%	73%
	Port Credit	696	37%	25%	5%	4%	10%	82%	40%	27%	4%	3%	10%	84%
	Queen Street Corridor	1,526	28%	10%	13%	22%	10%	84%	32%	11%	13%	20%	9%	84%
	Rathwood	1,573	29%	16%	7%	10%	17%	78%	30%	17%	6%	10%	18%	81%
	Rural Caledon	1,296	33%	19%	8%	6%	6%	72%	34%	19%	7%	5%	7%	72%
	Sandringham-Wellington	5,685	29%	6%	14%	30%	8%	87%	33%	7%	12%	27%	7%	86%
	Sandringham-Wellington North	13	14%	11%	18%	21%		64%	34%	10%	12%	14%	4%	75%
	Sheridan	969	33%	26%	5%	5%	11%	79%	33%	32%	4%	4%	10%	83%
	Sheridan Park	1	100%					100%	100%					100%
	Snelgrove	805	42%	10%	14%	10%	8%	83%	43%	11%	14%	7%	7%	82%
	Southdown	1		100%				100%		100%				100%
	Southgate	1,058	34%	9%	14%	19%	7%	83%	37%	10%	14%	16%	6%	83%
	Streetsville	943	33%	21%	5%	7%	12%	78%	34%	23%	5%	5%	14%	82%
	Toronto Gore Rural Estate	113	26%	10%	12%	23%	10%	81%	30%	10%	11%	20%	9%	79%
	Vales of Castlemore	891	28%	7%	12%	34%	6%	86%	32%	8%	11%	27%	7%	85%
	Vales of Castlemore North	413	34%	12%	9%	26%	6%	87%	38%	10%	10%	21%	5%	85%
	Westgate	782	31%	13%	14%	18%	9%	84%	35%	13%	13%	14%	8%	83%
Toronto	Agincourt North	1,880	16%	2%	18%	31%	2%	69%	19%	3%	21%	27%	2%	73%
	Agincourt South-Malvern West	1,457	18%	3%	17%	27%	2%	67%	21%	4%	19%	24%	3%	71%
	Alderwood	826	30%	19%	8%	8%	11%	76%	31%	19%	7%	8%	12%	77%
	Annex	2,012	14%	21%	4%	4%	9%	52%	13%	22%	4%	3%	9%	52%
	Banbury-Don Mills	2,207	20%	18%	12%	13%	4%	67%	18%	22%	9%	10%	4%	63%
	Bathurst Manor	815	22%	13%	9%	11%	8%	63%	25%	13%	9%	9%	9%	65%
	Bay Street Corridor	2,980	20%	13%	12%	14%	6%	65%	20%	13%	11%	11%	5%	60%
	Bayview Village	2,175	21%	10%	14%	20%	3%	67%	23%	13%	13%	16%	3%	68%
	Bayview Woods-Steeles	594	20%	6%	13%	21%	3%	63%	28%	8%	13%	17%	3%	68%
	Bedford Park-Nortown	1,690	17%	18%	3%	4%	6%	48%	18%	18%	3%	3%	6%	47%
	Beechborough-Greenbrook	207	47%	17%	2%	13%	7%	86%	45%	18%	3%	13%	8%	86%
	Bendale	2,453	24%	7%	21%	24%	3%	79%	28%	8%	19%	21%	3%	79%
	Birchcliffe-Cliffside	1,768	40%	26%	7%	3%	4%	79%	43%	26%	7%	3%	3%	82%
	Black Creek	595	27%	9%	8%	24%	11%	78%	28%	10%	7%	20%	11%	76%
	Blake-Jones	551	33%	18%	7%	6%	6%	70%	34%	17%	7%	5%	7%	71%
	Briar Hill-Belgravia	913	28%	15%	11%	11%	10%	75%	28%	15%	11%	10%	10%	76%
	Bridle Path-Sunnybrook-York Mills	890	19%	18%	6%	7%	3%	53%	18%	19%	4%	4%	2%	49%
	Broadview North	454	33%	20%	6%	4%	10%	73%	32%	20%	6%	4%	13%	74%
	Brookhaven-Amesbury	664	37%	19%	6%	11%	12%	85%	38%	16%	6%	12%	11%	83%
	Cabbagetown-South St. James Town	1,096	20%	19%	7%	5%	7%	59%	19%	19%	6%	6%	7%	56%
	Caledonia-Fairbank	681	35%	22%	7%	11%	10%	85%	37%	21%	7%	11%	10%	85%
	Casa Loma	608	11%	23%	3%	2%	8%	48%	10%	24%	3%	1%	6%	44%
	Centennial Scarborough	774	28%	18%	18%	12%	4%	79%	26%	23%	15%	9%	3%	75%
	Church-Yonge Corridor	3,438	24%	19%	11%	8%	7%	68%	23%	19%	11%	7%	6%	66%
	Clairlea-Birchmount	1,343	31%	14%	15%	12%	4%	77%	33%	16%	14%	10%	4%	77%
	Clanton Park	802	23%	11%	8%	7%	9%	58%	26%	12%	6%	7%	9%	61%
	Cliffcrest	863	39%	17%	14%	8%	3%	82%	42%	17%	16%	6%	3%	85%
	Corso Italia-Davenport	782	26%	22%	9%	7%	11%	75%	29%	20%	8%	7%	12%	77%
	Crescent Town	715	31%	17%	15%	9%	4%	76%	34%	15%	14%	9%	5%	77%
	Danforth	630	34%	20%	8%	4%	7%	73%	40%	17%	9%	3%	7%	76%
	Danforth Village-East York	1,340	34%	21%	8%	6%	6%	75%	37%	19%	8%	5%	7%	76%
	Don Valley Village	1,402	22%	9%	14%	22%	3%	69%	25%	11%	14%	18%	4%	72%
	Dorset Park - Toronto	1,889	26%	8%	21%	23%	4%	82%	30%	8%	21%	21%	4%	82%
	Dovercourt-Wallace Emerson-Junction	2,121	24%	20%	8%	8%	9%	71%	27%	19%	8%	9%	10%	73%
	Downsview-Roding-CFB	1,330	30%	13%	9%	15%	11%	78%	32%	14%	9%	14%	10%	78%
	Dufferin Grove	666	23%	20%	10%	8%	11%	71%	27%	19%	9%	8%	11%	74%
	East End-Danforth	1,577	37%	22%	7%	4%	5%	75%	41%	21%	6%	3%	4%	75%
	East York	578	32%	20%	11%	5%	5%	72%	33%	20%	10%	5%	5%	74%
	Edenbridge-Humber Valley	674	34%	33%	6%	5%	9%	87%	42%	31%	5%	4%	8%	89%
	Eglinton East	939	28%	8%	19%	24%	3%	82%	31%	9%	20%	21%	3%	84%
	Elms-Old Rexdale	528	38%	13%	10%	11%	11%	83%	36%	14%	8%	11%	10%	79%
	Englemount-Lawrence	803	20%	10%	4%	8%	9%	53%	19%	13%	5%	7%	8%	52%
	Eringate-Centennial-West Deane	1,188	33%	18%	7%	9%	15%	83%	34%	21%	7%	8%	15%	84%
	Etobicoke West Mall	642	31%	18%	7%	11%	14%	81%	32%	20%	7%	10%	15%	84%
	Flemingdon Park	1,315	26%	12%	19%	17%	5%	78%	26%	13%	19%	16%	5%	78%
	Forest Hill North	438	14%	14%	3%	4%	5%	38%	15%	15%	3%	2%	5%	40%
	Forest Hill South	683	8%	16%	3%	2%	4%	33%	7%	16%	3%	1%	4%	31%

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

Area	Community	# of Sales	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
		Jan 07-Feb 12	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
	Glenfield-Jane Heights	1,130	32%	9%	9%	17%	13%	80%	31%	11%	9%	15%	12%	78%
	Greenwood-Coxwell	1,346	29%	19%	8%	6%	7%	70%	32%	20%	8%	6%	5%	71%
	Guildwood	720	31%	24%	14%	6%	3%	78%	35%	24%	12%	5%	3%	78%
	Henry Farm	539	23%	10%	14%	16%	3%	67%	28%	13%	11%	14%	3%	69%
	High Park North	906	19%	37%	5%	4%	11%	76%	23%	36%	5%	4%	13%	81%
	High Park-Swansea	1,715	23%	32%	7%	4%	11%	78%	22%	35%	8%	4%	13%	81%
	Highland Creek	535	27%	8%	22%	22%	3%	82%	29%	8%	21%	17%	4%	79%
	Hillcrest Village	1,352	19%	5%	13%	21%	3%	61%	24%	7%	12%	18%	2%	64%
	Humber Heights	557	36%	19%	7%	8%	11%	81%	36%	23%	6%	7%	11%	84%
	Humber Summit	530	31%	10%	12%	21%	10%	83%	29%	13%	12%	19%	8%	82%
	Humberlea-Pelmo Park W4	245	43%	11%	6%	13%	10%	83%	44%	14%	6%	11%	8%	83%
	Humberlea-Pelmo Park W5	260	38%	15%	7%	14%	9%	83%	39%	18%	6%	11%	9%	83%
	Humbermede	581	30%	10%	9%	22%	10%	81%	31%	10%	10%	20%	9%	80%
	Humewood-Cedarvale	522	18%	14%	4%	2%	9%	47%	15%	13%	4%	2%	14%	48%
	Ionview	520	33%	8%	15%	16%	4%	77%	36%	10%	16%	14%	3%	79%
	Islington-City Centre West	3,623	30%	23%	8%	7%	12%	81%	32%	23%	8%	6%	12%	82%
	Junction Area	876	28%	24%	8%	7%	12%	78%	28%	25%	7%	6%	12%	79%
	Keelesdale-Eglinton West	869	41%	18%	7%	15%	7%	87%	41%	18%	6%	14%	9%	87%
	Kennedy Park	1,085	31%	13%	19%	17%	4%	83%	33%	13%	19%	15%	4%	84%
	Kensington-Chinatown	1,041	20%	17%	8%	11%	8%	64%	21%	17%	8%	10%	8%	64%
	Kingsview Village-The Westway	1,188	30%	20%	8%	14%	10%	81%	32%	21%	8%	10%	11%	83%
	Kingsway South	698	27%	41%	5%	2%	9%	85%	26%	46%	4%	2%	9%	88%
	Lambton Baby Point	438	24%	42%	5%	1%	8%	80%	22%	49%	4%	1%	7%	84%
	LAmoreaux	2,732	19%	6%	15%	24%	3%	66%	23%	8%	17%	21%	3%	72%
	Lansing-Westgate	1,641	23%	11%	12%	13%	8%	66%	23%	12%	11%	10%	7%	63%
	Lawrence Park North	1,412	21%	24%	7%	5%	7%	64%	21%	26%	5%	4%	8%	63%
	Lawrence Park South	1,066	17%	27%	2%	2%	6%	54%	17%	30%	2%	1%	5%	55%
	Leaside	1,242	22%	25%	4%	3%	7%	61%	20%	26%	4%	2%	7%	59%
	Little Portugal	559	26%	19%	8%	8%	11%	72%	29%	19%	7%	9%	12%	74%
	Long Branch	782	28%	23%	9%	6%	10%	75%	29%	24%	8%	5%	10%	77%
	Malvern	3,113	27%	5%	23%	27%	3%	85%	28%	5%	25%	24%	3%	84%
	Maple Leaf	268	36%	19%	6%	11%	10%	83%	34%	18%	8%	11%	11%	82%
	Markland Wood	717	33%	21%	7%	4%	22%	87%	35%	22%	5%	4%	23%	89%
	Milliken	1,823	15%	1%	17%	32%	1%	67%	20%	2%	19%	30%	1%	71%
	Mimico	3,726	31%	20%	10%	6%	8%	75%	32%	21%	9%	6%	8%	75%
	Morningside	1,066	30%	6%	22%	17%	4%	78%	31%	8%	22%	14%	3%	79%
	Moss Park	1,929	22%	21%	10%	6%	6%	65%	22%	22%	9%	6%	5%	63%
	Mount Dennis	780	30%	16%	10%	13%	11%	81%	34%	16%	9%	13%	11%	82%
	Mount Olive-Silverstone-Jamestown	1,703	25%	7%	12%	32%	9%	85%	29%	8%	11%	29%	9%	86%
	Mount Pleasant East	1,371	23%	26%	8%	3%	8%	67%	24%	25%	6%	3%	9%	66%
	Mount Pleasant West	2,277	23%	23%	8%	6%	6%	65%	22%	21%	8%	5%	6%	62%
	New Toronto	816	27%	22%	10%	5%	10%	74%	27%	25%	9%	5%	10%	76%
	Newtonbrook East	1,884	22%	6%	19%	23%	4%	74%	27%	7%	17%	19%	4%	74%
	Newtonbrook West	2,057	20%	8%	16%	23%	8%	75%	23%	9%	14%	19%	8%	73%
	Niagara	5,642	25%	21%	12%	6%	7%	71%	24%	21%	12%	6%	7%	69%
	North Riverdale	703	28%	22%	4%	3%	10%	67%	31%	20%	4%	3%	12%	69%
	North St. James Town	404	16%	18%	11%	9%	8%	61%	16%	15%	12%	9%	5%	57%
	Oakridge	475	36%	12%	16%	6%	5%	75%	38%	13%	16%	6%	4%	77%
	Oakwood-Vaughan	1,271	25%	16%	9%	7%	13%	70%	27%	16%	7%	7%	14%	72%
	OConnor-Parkview	784	32%	16%	13%	8%	7%	76%	33%	17%	15%	6%	7%	78%
	Palmerston-Little Italy	671	21%	19%	5%	7%	12%	63%	23%	18%	5%	7%	12%	65%
	Parkwoods-Donalda	1,293	20%	21%	12%	12%	6%	70%	19%	27%	10%	10%	5%	72%
	Playter Estates-Danforth	363	33%	18%	4%	4%	14%	72%	34%	16%	4%	3%	17%	73%
	Pleasant View	973	19%	5%	12%	24%	3%	64%	24%	7%	15%	20%	4%	70%
	Princess-Rosethorn	669	37%	33%	7%	4%	8%	89%	39%	35%	5%	3%	10%	91%
	Regent Park	251	21%	23%	9%	6%	7%	67%	21%	21%	7%	6%	6%	61%
	Rexdale-Kipling	418	31%	13%	12%	14%	7%	77%	34%	13%	9%	14%	6%	76%
	Rockcliffe-Smythe	1,453	32%	21%	6%	12%	11%	82%	34%	19%	6%	11%	12%	83%
	Roncesvalles	934	22%	23%	10%	3%	13%	69%	23%	23%	7%	3%	16%	71%
	Rosedale-Moore Park	1,820	11%	28%	4%	2%	5%	49%	9%	27%	3%	1%	4%	46%
	Rouge E10	580	35%	17%	16%	10%	2%	80%	32%	20%	15%	7%	3%	78%
	Rouge E11	2,215	27%	6%	21%	32%	3%	88%	30%	7%	23%	25%	3%	88%
	Runnymede-Bloor West Village	804	25%	33%	8%	3%	10%	79%	28%	36%	5%	3%	11%	82%
	Rustic	195	47%	11%	5%	10%	11%	83%	42%	14%	6%	10%	11%	82%
	Scarborough Village	779	39%	14%	12%	15%	3%	83%	43%	15%	12%	11%	3%	84%
	South Parkdale	590	23%	19%	12%	7%	10%	72%	28%	19%	10%	8%	10%	75%
	South Riverdale	2,462	30%	21%	7%	6%	6%	70%	33%	18%	7%	5%	6%	69%
	St. Andrew-Windfields	1,338	20%	10%	9%	18%	3%	60%	25%	11%	7%	12%	3%	58%
	Steeles	1,677	15%	2%	14%	29%	1%	61%	20%	3%	16%	25%	1%	65%
	Stonegate-Queensway	1,765	25%	35%	7%	3%	10%	81%	25%	39%	6%	3%	11%	85%
	Tam OShanter-Sullivan	1,413	21%	6%	14%	24%	2%	67%	23%	7%	17%	21%	3%	71%
	The Beaches	2,065	40%	27%	5%	2%	4%	77%	43%	28%	4%	2%	3%	79%
	Thistletown-Beaumonde Heights	453	27%	11%	14%	25%	8%	84%	32%	13%	12%	20%	8%	84%
	Thorncliffe Park	302	24%	18%	16%	9%	10%	77%	23%	19%	15%	8%	11%	76%
	Trinity-Bellwoods	953	23%	16%	6%	7%	9%	61%	25%	16%	6%	7%	10%	64%
	University	317	18%	14%	8%	5%	11%	57%	16%	14%	8%	4%	12%	54%
	Victoria Village	821	32%	20%	14%	11%	4%	82%	32%	23%	15%	9%	4%	83%
	Waterfront Communities C1	8,630	27%	14%	13%	9%	6%	69%	26%	13%	12%	9%	6%	66%
	Waterfront Communities C8	1,001	24%	19%	10%	5%	7%	66%	22%	17%	11%	5%	7%	61%
	West Hill	1,543	31%	12%	21%	14%	4%	82%	33%	13%	19%	11%	4%	82%
	West Humber-Clairville	2,083	29%	6%	15%	26%	9%	86%	31%	7%	13%	24%	9%	84%
	Westminster-Branson	1,336	17%	10%	15%	17%	13%	72%	19%	10%	13%	15%	14%	71%
	Weston	1,154	32%	16%	9%	10%	11%	78%	34%	16%	8%	10%	10%	79%
	Weston-Pellam Park	824	32%	18%	10%	11%	9%	80%	34%	17%	9%	11%	11%	82%
	Wexford-Maryvale	1,345	26%	12%	18%	19%	5%	80%	29%	14%	20%	15%	4%	82%
	Willowdale East	8,347	23%	7%	14%	23%	4%	70%	26%	7%	14%	20%	4%	72%
	Willowdale West	2,052	23%	9%	15%	18%	6%	71%	24%	9%	14%	16%	6%	70%
	Willowridge-Martingrove-Richview	830	33%	22%	6%	10%	12%	83%	35%	24%	6%	8%	12%	85%

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

Area	Community	# of Sales	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
		Jan 07-Feb 12	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
	Woburn	3,500	28%	6%	20%	23%	3%	81%	33%	8%	19%	19%	4%	81%
	Woodbine Corridor	1,001	36%	22%	8%	5%	5%	76%	40%	22%	8%	4%	4%	78%
	Woodbine-Lumsden	836	32%	20%	11%	5%	7%	75%	35%	18%	12%	5%	7%	76%
	Wychwood	636	19%	17%	8%	4%	11%	59%	18%	17%	7%	4%	14%	59%
	Yonge-Eglinton	593	18%	24%	6%	2%	7%	57%	20%	26%	5%	2%	7%	59%
	Yonge-St. Clair	987	13%	29%	3%	3%	5%	53%	10%	31%	3%	2%	5%	52%
	York University Heights	1,190	22%	10%	15%	23%	10%	80%	22%	11%	15%	22%	9%	79%
	Yorkdale-Glen Park	638	30%	14%	10%	12%	11%	77%	33%	15%	8%	11%	9%	76%
York	Aileen-Willowbrook	1,025	19%	10%	16%	22%	4%	71%	23%	10%	15%	19%	4%	72%
	Angus Glen	300	31%	11%	17%	11%	2%	72%	36%	15%	17%	9%	3%	80%
	Armitage	294	23%	23%	15%	10%	13%	84%	23%	27%	15%	7%	12%	86%
	Aurora Estates	231	35%	18%	7%	9%	6%	75%	38%	23%	6%	6%	4%	77%
	Aurora Grove	312	23%	25%	17%	11%	7%	82%	21%	30%	18%	8%	6%	84%
	Aurora Heights	437	27%	29%	15%	7%	7%	85%	30%	31%	13%	5%	7%	86%
	Aurora Highlands	1,101	25%	29%	14%	7%	6%	82%	28%	32%	11%	6%	6%	82%
	Aurora Village	553	28%	26%	14%	5%	6%	80%	29%	30%	13%	4%	6%	82%
	Baldwin	204	34%	16%	14%	4%	13%	81%	35%	14%	12%	2%	17%	80%
	Ballantrae	267	27%	26%	17%	3%	9%	83%	25%	33%	12%	4%	9%	83%
	Bayview Fairway-Bayview Country Club Estates	252	22%	10%	14%	20%	6%	72%	30%	13%	11%	14%	4%	72%
	Bayview Glen	159	18%	8%	18%	17%	3%	64%	23%	7%	19%	12%	3%	64%
	Bayview Hill	666	15%	3%	14%	25%	3%	61%	16%	5%	16%	21%	2%	60%
	Bayview Northeast	633	25%	17%	18%	14%	5%	78%	26%	17%	15%	15%	6%	79%
	Bayview Southeast	45	37%	16%	3%	16%		72%	36%	17%	9%	8%	2%	71%
	Bayview Wellington	944	24%	24%	14%	12%	6%	80%	28%	25%	13%	10%	6%	82%
	Beaver Creek Business Park	216	18%	3%	14%	27%	3%	66%	19%	3%	14%	23%	4%	64%
	Belhaven	65	39%	16%	11%	2%	6%	75%	45%	12%	12%	1%	5%	76%
	Berczy	1,433	20%	2%	14%	26%	2%	65%	28%	4%	16%	22%	3%	72%
	Beverley Glen	1,013	25%	11%	10%	16%	12%	75%	28%	11%	10%	14%	11%	75%
	Box Grove	488	24%	6%	22%	31%	1%	84%	29%	6%	21%	24%	2%	83%
	Bristol-London	778	25%	24%	15%	5%	14%	83%	25%	25%	14%	4%	16%	84%
	Brownridge	1,267	23%	9%	14%	18%	11%	75%	24%	11%	13%	17%	11%	75%
	Bullock	273	26%	5%	19%	14%	7%	70%	30%	9%	21%	9%	8%	77%
	Buttonville	320	21%	4%	11%	27%	2%	65%	25%	7%	16%	21%	2%	71%
	Cachet	693	20%	4%	15%	21%	3%	63%	26%	6%	15%	19%	2%	69%
	Cathedraltown	204	27%	5%	16%	20%	4%	73%	29%	5%	14%	16%	3%	67%
	Cedar Grove	24	17%		44%	27%		88%	21%	2%	30%	26%		79%
	Cedarwood	304	31%	3%	16%	36%	2%	89%	33%	3%	17%	33%	2%	88%
	Central Newmarket	1,023	24%	24%	18%	5%	12%	83%	25%	25%	17%	4%	13%	84%
	Commerce Valley	1,168	19%	5%	16%	25%	3%	67%	18%	5%	18%	25%	3%	68%
	Concord	153	31%	11%	9%	21%	11%	82%	31%	11%	7%	21%	11%	81%
	Cornell	1,527	30%	8%	22%	17%	4%	82%	33%	9%	23%	14%	5%	84%
	Crestwood-Springfarm-Yorkhill	1,770	21%	9%	12%	16%	13%	72%	24%	9%	11%	13%	13%	71%
	Crosby	967	20%	11%	19%	22%	5%	76%	22%	15%	17%	20%	5%	79%
	Devils Elbow	113	18%	1%	15%	21%	2%	55%	21%	3%	14%	22%	1%	60%
	Devonsleigh	743	21%	6%	14%	27%	5%	72%	20%	10%	14%	27%	4%	76%
	Doncrest	677	18%	4%	12%	28%	4%	66%	21%	6%	15%	24%	3%	69%
	East Woodbridge	1,376	32%	19%	7%	13%	8%	79%	34%	20%	6%	12%	9%	80%
	Elder Mills	132	29%	16%	12%	16%	6%	79%	34%	16%	8%	11%	7%	76%
	Georgina Island	14	4%	12%	16%		40%	71%	4%	6%	12%		51%	73%
	German Mills	384	25%	8%	17%	21%	3%	74%	29%	11%	14%	17%	3%	73%
	Glen Shields	308	22%	6%	18%	23%	11%	80%	25%	8%	19%	19%	10%	80%
	Glenway Estates	274	24%	29%	14%	6%	12%	86%	25%	29%	13%	5%	13%	84%
	Gorham-College Manor	938	24%	27%	15%	7%	11%	84%	25%	28%	14%	5%	13%	86%
	Grandview	261	18%	6%	23%	26%	3%	75%	25%	9%	19%	18%	2%	73%
	Greensborough	1,345	29%	7%	20%	20%	4%	81%	31%	8%	21%	17%	5%	82%
	Harding	1,023	23%	11%	17%	19%	6%	77%	24%	14%	16%	19%	5%	79%
	Headford Business Park	3		37%	35%			72%		37%	17%			54%
	Hills of St Andrew	217	30%	30%	7%	3%	4%	75%	37%	31%	5%	3%	4%	80%
	Historic Lakeshore Communities	712	31%	17%	11%	3%	6%	68%	34%	16%	10%	2%	6%	68%
	Holland Landing	486	26%	28%	13%	2%	15%	83%	24%	29%	16%	2%	14%	85%
	Huron Heights-Leslie Valley	568	29%	26%	13%	5%	12%	85%	29%	24%	13%	5%	14%	86%
	Islington Woods	444	37%	20%	4%	13%	6%	81%	39%	22%	4%	11%	5%	82%
	Jefferson	1,282	19%	11%	17%	24%	4%	75%	20%	13%	15%	25%	4%	78%
	Keswick North	914	28%	16%	13%	2%	9%	69%	30%	14%	11%	2%	8%	64%
	Keswick South	1,463	32%	16%	13%	3%	10%	73%	34%	15%	12%	2%	9%	73%
	King City	308	29%	20%	6%	9%	5%	68%	29%	23%	7%	6%	4%	69%
	Kleinburg	275	39%	19%	5%	7%	4%	73%	43%	20%	3%	6%	3%	75%
	Lakeview Estates	497	22%	10%	14%	20%	10%	77%	24%	10%	14%	17%	9%	74%
	Langstaff	2,423	22%	9%	17%	23%	4%	74%	24%	11%	16%	20%	4%	76%
	Langstaff South	2		44%		56%		100%	22%	22%		28%	28%	100%
	Legacy	184	29%	5%	20%	30%	3%	87%	34%	6%	20%	22%	5%	88%
	Maple	2,486	28%	16%	10%	19%	7%	80%	28%	18%	9%	19%	7%	81%
	Markham Village	733	31%	14%	18%	10%	9%	83%	35%	13%	19%	8%	12%	87%
	Markville	611	22%	5%	19%	22%	2%	70%	28%	6%	21%	19%	3%	77%
	Middlefield	1,208	24%	2%	20%	32%	2%	80%	30%	2%	20%	30%	2%	84%
	Mill Pond	806	20%	22%	13%	18%	5%	78%	21%	28%	11%	15%	5%	80%
	Milliken Mills East	1,407	19%	1%	16%	30%	1%	68%	25%	2%	18%	27%	2%	74%
	Milliken Mills West	480	16%	1%	16%	27%	1%	61%	22%	2%	19%	25%	1%	70%
	Mt Albert	409	27%	29%	13%	4%	11%	83%	25%	31%	11%	2%	11%	81%
	Newmarket Industrial Park	8	46%	25%		7%		77%	55%	15%	3%	3%		76%
	Nobleton	199	43%	25%	5%	6%	3%	82%	46%	22%	6%	5%	2%	81%
	North Richvale	1,399	21%	16%	14%	21%	7%	79%	23%	19%	14%	19%	6%	80%
	Oak Ridges	1,592	20%	17%	14%	22%	6%	79%	20%	20%	14%	22%	5%	81%
	Oak Ridges Lake Wilcox	1,310	20%	13%	16%	23%	5%	77%	19%	19%	16%	20%	5%	78%
	Observatory	709	20%	11%	15%	25%	4%	76%	23%	16%	14%	21%	5%	79%
	Old Markham Village	236	32%	10%	18%	12%	14%	86%	35%	13%	17%	9%	16%	89%
	Patterson	3,595	22%	11%	13%	20%	9%	74%	23%	10%	12%	19%	9%	73%
	Pefferlaw	330	25%	11%	17%	4%	18%	74%	27%	12%	14%	2%	18%	73%

Exhibit 4c

Share of Commission across Communities - Top Five Corporate Brokerages in the GTA

Area	Community	# of Sales Jan 07-Feb 12	Share of Buy-Side Commission						Share of Estimated Overall Commission*					
			Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total	Re/Max	Royal LePage	Realogy	HomeLife	Sutton Group	Total
	Pottageville	120	23%	24%	15%	7%	4%	73%	28%	27%	14%	6%	2%	77%
	Queensville	46	27%	32%	19%	5%	8%	91%	21%	34%	16%	2%	14%	88%
	Raymerville	540	24%	9%	18%	20%	3%	75%	29%	10%	18%	17%	5%	80%
	Rouge Fairways	138	22%	4%	25%	32%	1%	85%	31%	4%	26%	24%	3%	88%
	Rouge River Estates	156	23%	2%	17%	43%	1%	87%	26%	4%	25%	32%	3%	89%
	Rouge Woods	1,621	20%	3%	13%	28%	3%	67%	23%	7%	14%	25%	3%	72%
	Royal Orchard	730	21%	17%	17%	18%	4%	77%	22%	23%	15%	14%	4%	78%
	Rural East Gwillimbury	311	24%	31%	11%	5%	10%	81%	28%	30%	10%	4%	11%	82%
	Rural King	498	23%	25%	9%	5%	3%	65%	27%	25%	9%	3%	3%	66%
	Rural Markham	78	14%	11%	18%	17%	1%	62%	14%	14%	15%	12%	5%	59%
	Rural Richmond Hill	107	11%	20%	9%	24%	2%	66%	17%	18%	11%	17%	2%	65%
	Rural Vaughan	460	25%	16%	9%	18%	4%	73%	24%	17%	8%	16%	6%	71%
	Rural Whitchurch-Stouffville	764	25%	17%	14%	9%	7%	73%	29%	20%	12%	6%	7%	76%
	Schomberg	136	19%	25%	8%	7%	2%	62%	22%	24%	8%	4%	2%	61%
	Sharon	197	29%	33%	9%	2%	17%	89%	35%	24%	9%	2%	19%	89%
	Sherwood-Amberglen	202	28%	15%	21%	11%	11%	86%	32%	15%	22%	8%	12%	88%
	Sonoma Heights	1,003	31%	20%	7%	16%	8%	82%	32%	19%	6%	15%	9%	81%
	South Richvale	472	15%	14%	16%	22%	5%	72%	17%	21%	14%	16%	5%	72%
	Steeles West Industrial	3	28%		33%		39%	100%	50%	14%	16%		19%	100%
	Stonehaven-Wyndham	893	26%	24%	14%	9%	9%	82%	29%	26%	12%	7%	10%	83%
	Stouffville	1,878	31%	12%	18%	11%	9%	81%	31%	11%	16%	11%	10%	79%
	Summerhill Estates	1,242	24%	26%	15%	10%	10%	84%	23%	27%	15%	8%	13%	85%
	Sutton & Jacksons Point	610	30%	15%	15%	3%	8%	72%	31%	14%	15%	2%	8%	71%
	Thornhill	468	24%	15%	14%	18%	5%	76%	24%	20%	14%	14%	4%	75%
	Thornlea	270	22%	9%	15%	29%	2%	77%	24%	11%	16%	23%	3%	76%
	Unionville	2,554	21%	7%	16%	20%	3%	67%	25%	8%	20%	17%	3%	72%
	Uplands	382	21%	16%	13%	15%	9%	74%	23%	18%	11%	10%	10%	72%
	Vaughan Grove	86	29%	17%	12%	13%	1%	74%	30%	18%	9%	11%	3%	71%
	Vellore Village	3,338	30%	13%	11%	22%	8%	83%	29%	15%	10%	21%	8%	82%
	Victoria Manor-Jennings Gate	251	18%	8%	15%	25%	1%	67%	24%	8%	15%	22%	2%	70%
	Victoria Square	84	26%	4%	10%	30%	2%	73%	32%	5%	12%	20%	2%	71%
	Village Green-South Unionville	605	19%	3%	15%	29%	2%	68%	23%	9%	17%	23%	1%	74%
	Vinegar Hill	122	23%	8%	13%	20%	9%	74%	22%	14%	12%	16%	16%	79%
	Virginia	215	25%	8%	21%	3%	8%	65%	24%	7%	19%	1%	7%	59%
	West Woodbridge	949	35%	16%	7%	15%	8%	80%	37%	17%	7%	13%	8%	82%
	West Woodbridge Industrial Area	3	66%	34%				100%	51%	49%				100%
	Westbrook	1,195	18%	10%	16%	25%	6%	75%	20%	13%	15%	25%	6%	79%
	Wismer	1,198	24%	4%	17%	26%	3%	74%	30%	5%	18%	22%	2%	76%
	Woodland Hill	909	23%	17%	15%	14%	12%	80%	24%	16%	12%	13%	16%	82%

Source: MLS data; sold transactions.

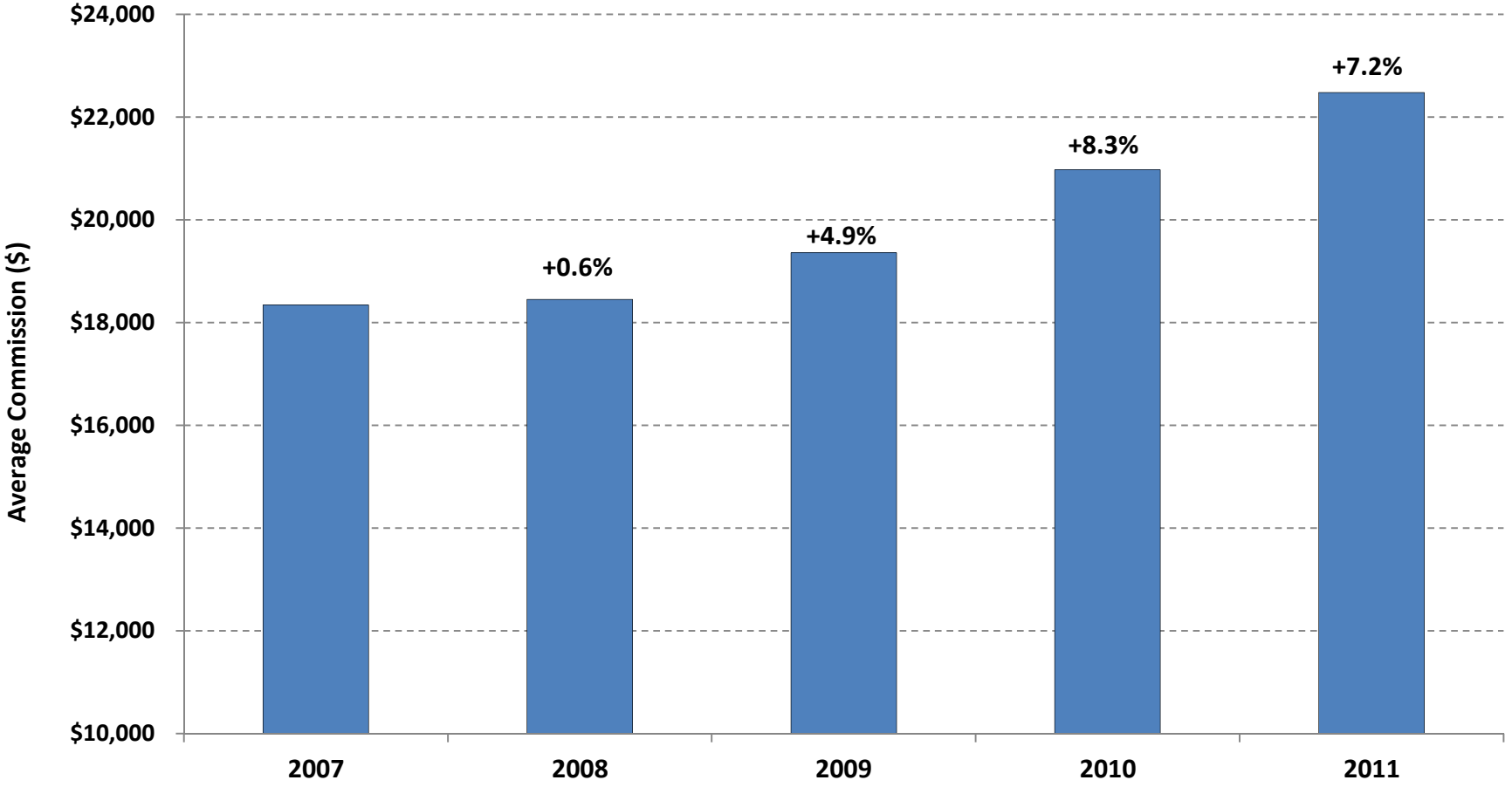
Notes

* Overall commission is based on the assumption that the commission is split equally between the sell-side and buy-side agents. Buy-side commissions based on MLS data showing buy-side commission offers. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Based on homes sold in the Greater Toronto Area between January 2007 and February 2012

Analysis based on communities, as identified in the MLS dataset.

Exhibit 5
Average Estimated Overall Commission in the Greater Toronto Area
2007-2011 Sales



Source: MLS data; sold transactions.

Notes: Overall commission is based on the assumption that the commission is split equally between the sell-side and buy-side agents.B uy-side commissions based on MLS data showing buy-side commission offers.

Figures at the top of bars represent year to year changes.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 6
Share of Transactions without a Buy-Side Agent *

Year	Sell-Side Agent = Buy-Side Agent
2007	10.3%
2008	10.4%
2009	8.7%
2010	9.3%
2011	9.2%
2012 (Jan - Feb)	10.3%

Source: MLS Data; sold transactions.

Notes

* Estimated as the percentage of transactions where the buy-side agent and the sell-side agent were the same.

Exhibit 7a

Percentage of Transactions within a Given Distance from an Agent's Principal Base of Operation*

Sides Included	Distance (Km)	Share of Transactions in Region**
Buyer & Seller	10	72.2%
Buyer & Seller	20	90.5%
Buyer & Seller	30	96.7%
Buyer	10	68.8%
Buyer	20	88.8%
Buyer	30	95.8%
Seller	10	75.9%
Seller	20	92.3%
Seller	30	97.4%

Source: MLS data; sold transactions.

Notes

*An agent's principal base of operation is the 6-digit postal code that has the highest share of the agent's sales within a 10/20/30 Km radius.

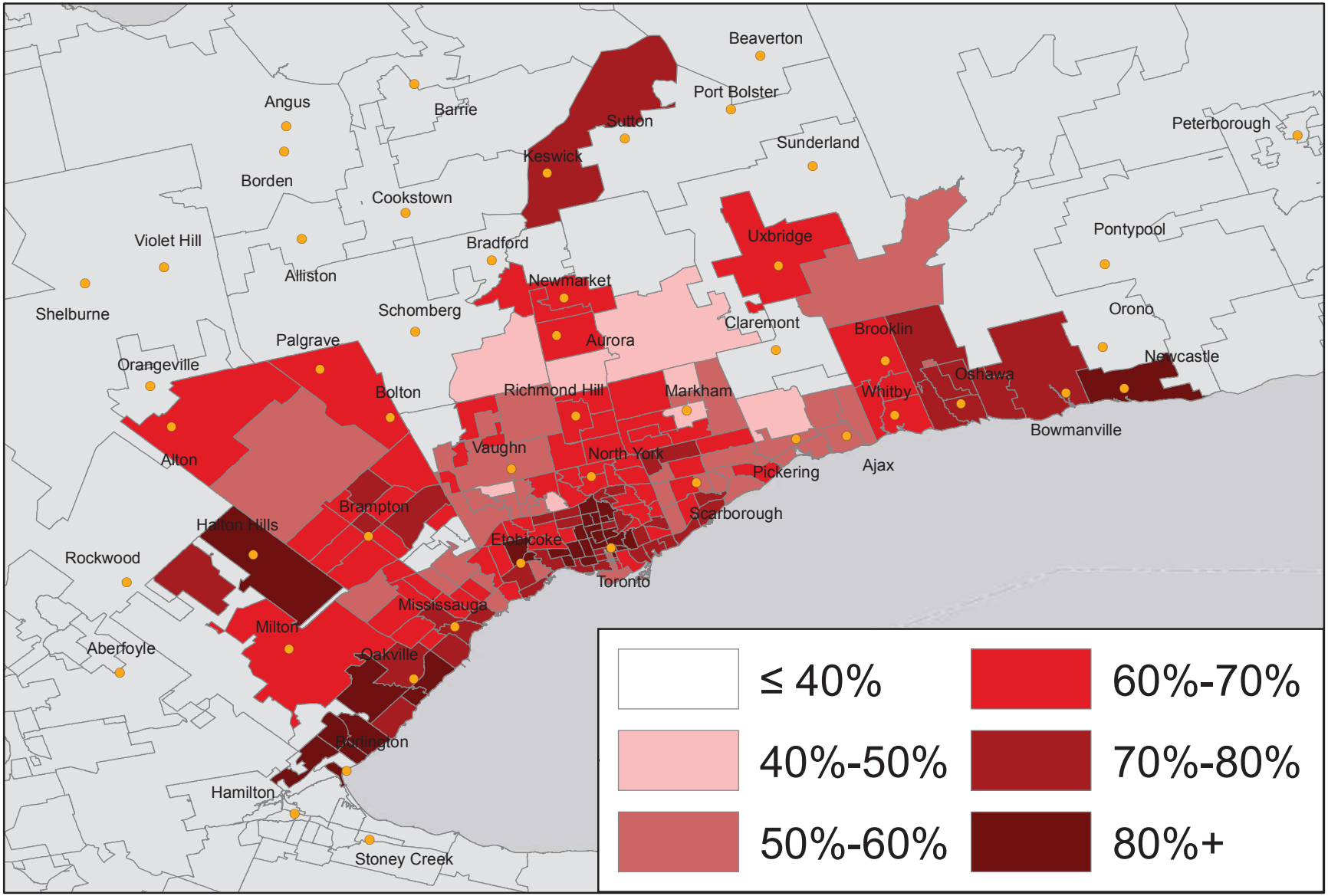
**A region is defined as all 6-digit postal codes for which the centroid of the postal code lies within 10/20/30 Km of the centroid of the agent's principal base of operation.

Based on homes sold in the GTA between Jan 2010 and Feb 2012. Limited to agents with at least 10 transactions during the Jan 2010 - Feb 2012 period.

A small number of records (about 0.3%) could not be geocoded and are thus excluded from the analysis.

For about 6.5% of records, latitude/longitude are available but postal code is not. These records are not used in identifying an agent's principal base of operation. They are however used when calculating the share of transactions in region.

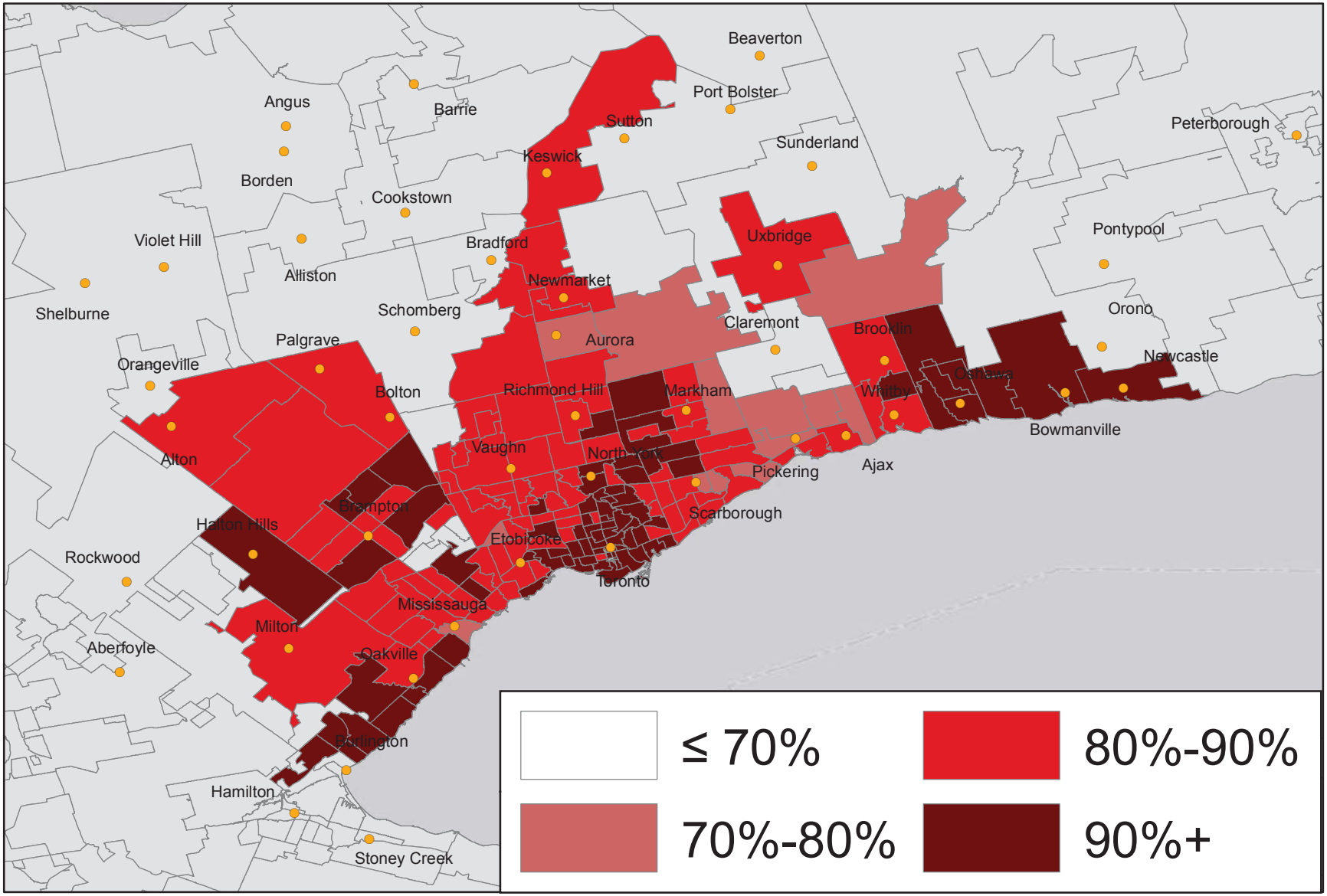
Exhibit 7b: Share of Transactions within 10 Km of Agents' Principal Base of Operation



Notes:
1) Map by postal FSA in the Greater Toronto Area.
2) Based on homes sold in the GTA between Jan 2010 and Feb 2012. Limited to agents with at least 10 transactions during the Jan 2010 to Feb 2012 period.
3) An agent's principal base of operation is the 6-digit postal code that has the highest share of the agent's sales within a 10 Km radius. The FSA of this 6-digit postal code is then selected as the agent's principal FSA of operation, and the agent's transactions are attributed to that FSA.
4) A small number of records (about 0.3%) could not be geocoded and are thus excluded from the analysis.
5) For about 6.5% of records, latitude/longitude are available, but postal code is not. These records are not used in identifying an agent's principal base of operation. They are, however, used when calculating the share of transactions in region.

Source: MLS data; sold transactions.

Exhibit 7c: Share of Transactions within 20 Km of Agents' Principal Base of Operation



Notes:
1) Map by postal FSA in the Greater Toronto Area.
2) Based on homes sold in the GTA between Jan 2010 and Feb 2012. Limited to agents with at least 10 transactions during the Jan 2010 to Feb 2012 period.
3) An agent's principal base of operation is the 6-digit postal code that has the highest share of the agent's sales within a 20 Km radius. The FSA of this 6-digit postal code is then selected as the agent's principal FSA of operation, and the agent's transactions are attributed to that FSA.
4) A small number of records (about 0.3%) could not be geocoded and are thus excluded from the analysis.
5) For about 6.5% of records, latitude/longitude are available, but postal code is not. These records are not used in identifying an agent's principal base of operation. They are, however, used when calculating the share of transactions in region.

Source: MLS data; sold transactions.

Exhibit 8
Share of Listings Excluded from IDXs

	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007-2012
Durham	41.2%	41.9%	40.2%	39.5%	38.6%	43.0%	40.3%
Halton	80.1%	80.8%	82.9%	80.0%	75.6%	76.4%	79.8%
Peel	47.2%	45.4%	44.6%	43.0%	40.5%	40.6%	44.1%
Toronto	58.8%	57.0%	56.0%	55.0%	52.3%	50.4%	55.7%
York	62.5%	62.2%	60.1%	58.9%	55.7%	56.9%	59.7%
GTA	56.7%	55.7%	55.5%	53.7%	51.3%	51.1%	54.5%

Source: MLS Data; sold transactions.

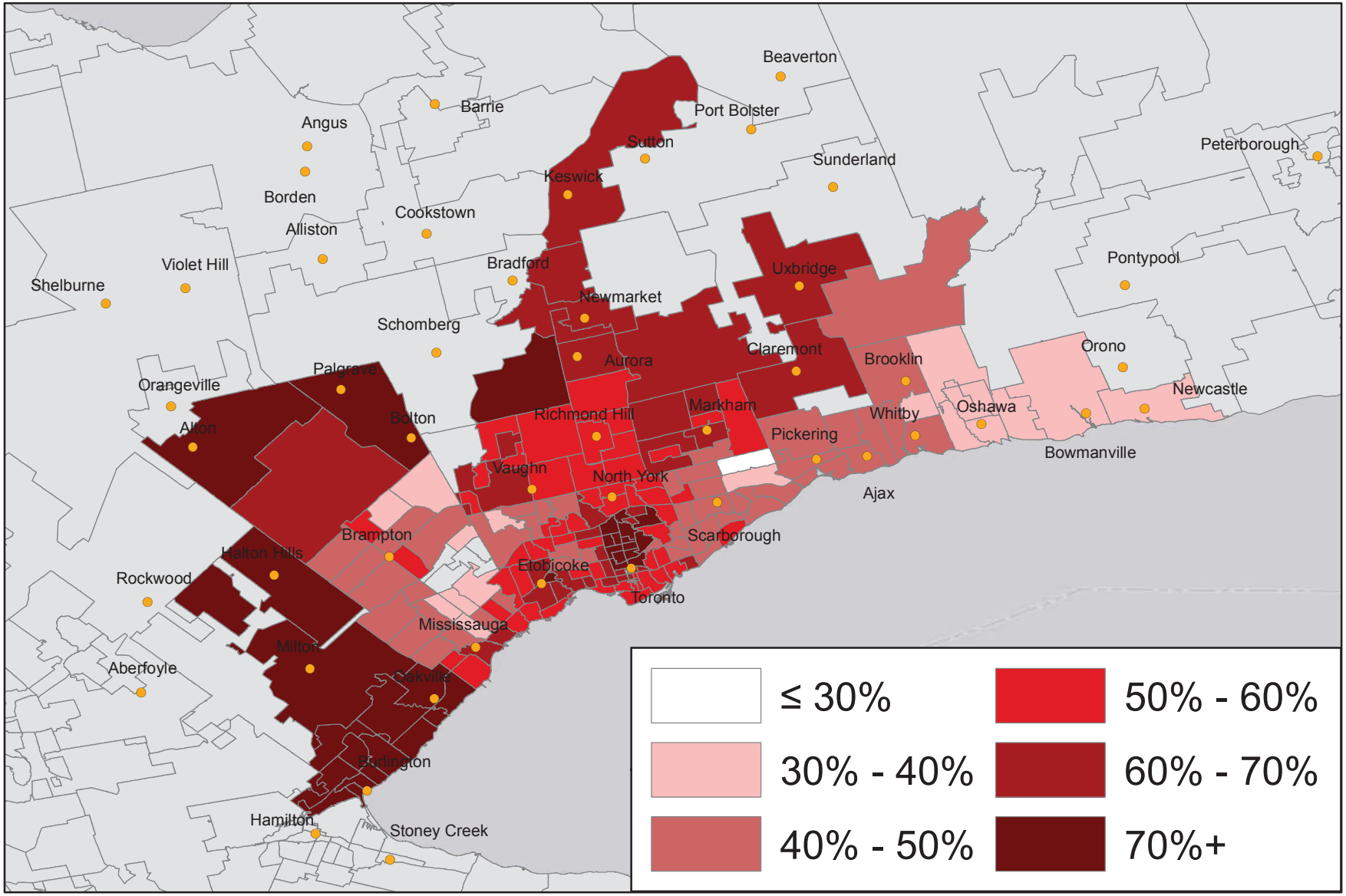
Notes

Based on homes sold in the Greater Toronto Area between Jan 2007 and Feb 2012.

IDX exclusion defined as listings for which "Permission to Advertise" = No.

Missing entries are treated as "Permission to Advertise" = No. This occurs in fewer than 1% of the records in all areas except Halton, where the share of missing records is about 50%.

Exhibit 9a: Share of Listings Excluded from IDXs



Notes:
1) Map by postal FSAs in the Greater Toronto Area.
2) Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.
3) IDX exclusion defined as listings for which "Permission to Advertise" = No. Blank entries treated as "Permission to Advertise" = No. "Permission to Advertise" is missing for fewer than 1% of the records in all areas except Halton, where the share of missing records is about 50%.
4) FSAs with fewer than 50 transactions excluded (they represent less than 0.5% of all transactions).
Rural FSAs (i.e., FSAs with zero as their second character) excluded (they represent less than 1.5% of all transactions).

Source: MLS data; sold transactions.

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
Durham	Amberlea	983	49%	52%	43%	45%	49%	67%	48%
	Bay Ridges	600	45%	40%	34%	44%	41%	45%	41%
	Beaverton	370	61%	71%	73%	68%	62%	29%	66%
	Blackstock	68	20%	17%	29%	15%	61%	67%	32%
	Blue Grass Meadows	961	34%	44%	39%	35%	33%	50%	37%
	Bowmanville	3,971	35%	35%	35%	42%	35%	39%	36%
	Brock Industrial	2				100%	0%		50%
	Brock Ridge	537	44%	47%	44%	48%	41%	50%	45%
	Brooklin	1,732	41%	47%	50%	41%	40%	43%	44%
	Cannington	214	73%	74%	74%	52%	42%	50%	61%
	Centennial	1,074	33%	32%	34%	32%	33%	46%	33%
	Central - Ajax	1,660	48%	43%	42%	40%	35%	50%	42%
	Central - Oshawa	1,043	31%	30%	35%	34%	33%	45%	33%
	Central East	275	49%	57%	55%	47%	35%	71%	48%
	Central West	1,685	43%	52%	41%	42%	42%	44%	44%
	Columbus	22	0%	20%	38%	67%	100%		45%
	Courtice	2,286	31%	35%	30%	33%	36%	33%	33%
	Donevan	1,067	35%	42%	32%	33%	31%	39%	35%
	Downtown Whitby	951	46%	38%	41%	47%	41%	60%	43%
	Duffin Heights	6					50%	25%	33%
	Dunbarton	178	41%	54%	30%	50%	53%	67%	45%
	Eastdale	1,044	30%	42%	35%	33%	34%	26%	34%
	Farewell	94	48%	46%	47%	36%	25%	33%	40%
	Highbush	505	51%	54%	38%	43%	47%	64%	47%
	Kedron	82	29%	31%	33%	31%	32%	0%	30%
	Lakeview - Oshawa	1,328	33%	34%	33%	25%	33%	32%	32%
	Liverpool	1,256	48%	46%	43%	46%	52%	56%	47%
	Lynde Creek	776	48%	41%	43%	40%	39%	38%	42%
	McLaughlin	868	33%	43%	36%	41%	33%	53%	37%
	Newcastle	734	32%	27%	28%	30%	27%	16%	29%
	Northeast Ajax	1,011	35%	44%	42%	33%	33%	13%	36%
	Northglen	343	42%	41%	50%	43%	40%	86%	44%
	Northwest Ajax	1,190	45%	43%	51%	35%	29%	33%	40%
	Northwood	13	50%	0%	50%	50%	50%		46%
	ONeill	1,255	32%	30%	35%	32%	32%	30%	32%
	Orono	92	48%	43%	25%	35%	38%		39%
	Pinecrest	1,108	33%	34%	36%	31%	35%	61%	34%
	Port Perry	752	58%	51%	50%	51%	51%	47%	52%
	Port Whitby	686	63%	53%	55%	46%	45%	42%	52%
	Pringle Creek	1,895	41%	39%	36%	36%	35%	36%	37%
	Raglan	20	33%	0%	40%	50%	50%	50%	40%
	Rolling Acres	1,176	36%	36%	36%	29%	33%	61%	35%
	Rosebank	163	78%	58%	54%	48%	47%	50%	58%
	Rouge Park	96	38%	43%	42%	17%	56%	100%	42%
	Rougemount	202	55%	47%	44%	49%	64%	50%	52%
	Rural Brock	274	55%	75%	56%	60%	41%	57%	56%
	Rural Clarington	820	36%	41%	31%	38%	32%	29%	35%
	Rural Oshawa	47	63%	63%	64%	36%	44%		53%
	Rural Pickering	234	47%	66%	62%	57%	55%	83%	57%
	Rural Scugog	873	45%	32%	44%	41%	48%	42%	42%
	Rural Uxbridge	566	62%	64%	62%	58%	59%	56%	61%
	Rural Whitby	166	58%	45%	53%	44%	16%	33%	43%
	Samac	1,248	32%	32%	35%	34%	34%	31%	34%
	South East	1,926	48%	43%	41%	40%	41%	52%	43%
	South West	883	46%	40%	33%	43%	44%	41%	41%
	Stevenson	22	33%	33%	17%	67%	25%		32%
	Sunderland	105	63%	54%	80%	75%	85%	67%	71%
	Taunton	569	44%	30%	28%	30%	35%	47%	34%
	Taunton North	720	45%	52%	40%	42%	37%	36%	43%
	Town Centre	625	44%	44%	46%	46%	43%	63%	45%
	Uxbridge	974	69%	69%	69%	66%	65%	63%	67%
	Vanier	893	31%	34%	35%	31%	33%	22%	32%
	Village East	671	41%	46%	45%	44%	36%	67%	43%
	West Shore	518	43%	44%	45%	47%	49%	25%	45%
	Whitby Industrial	9	0%	100%	33%	100%	0%		56%
	Williamsburg	1,345	41%	44%	36%	36%	36%	36%	38%
	Windfields	170	39%	48%	36%	35%	39%	0%	38%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	Woodlands	188	53%	37%	28%	38%	33%	33%	38%
Halton	401 Business Park	23	50%	100%	100%	57%	50%		74%
	Acton	1,012	74%	76%	78%	78%	70%	71%	75%
	Alton - Burlington	639	74%	71%	83%	73%	64%	50%	72%
	Appleby	1,056	88%	89%	92%	88%	78%	50%	87%
	Bayview	170	100%	94%	95%	89%	97%	100%	95%
	Beaty	2,309	71%	77%	74%	71%	65%	69%	72%
	Bowes	1					100%		100%
	Brant	759	93%	88%	90%	92%	84%	60%	89%
	Brant Hills	522	86%	82%	91%	92%	87%	60%	88%
	Bronte East	1,011	86%	85%	92%	83%	82%	76%	85%
	Bronte Meadows	507	86%	89%	87%	88%	71%	67%	83%
	Bronte West	2,077	88%	86%	88%	81%	81%	81%	85%
	Brookville	64	91%	60%	100%	94%	93%	100%	92%
	Campbellville	94	88%	100%	95%	100%	96%	100%	95%
	Clarke	1,411	72%	66%	69%	73%	64%	61%	69%
	Clearview	520	54%	68%	67%	52%	58%	67%	61%
	Coates	1,005	57%	64%	70%	67%	57%	49%	63%
	Cobban	1					100%		100%
	College Park	1,056	82%	85%	79%	83%	83%	64%	82%
	Dempsey	1,180	66%	70%	74%	76%	67%	62%	71%
	Derry Green Business Park	4	0%		100%		100%		75%
	Dorset Park - Milton	454	84%	86%	92%	92%	86%	89%	88%
	Eastlake	1,100	88%	89%	88%	85%	84%	94%	87%
	Esquesing	7		100%	100%	100%	100%		100%
	Freeman	79	76%	93%	94%	85%	100%	0%	89%
	Georgetown	3,362	76%	78%	81%	78%	68%	70%	76%
	Glen Abbey	1,978	84%	85%	86%	80%	79%	71%	82%
	Glen Williams	91	71%	78%	81%	84%	65%	100%	77%
	Grindstone	18	100%	100%	100%	100%	67%		94%
	Harrison	797	0%	68%	70%	67%	57%	63%	64%
	Headon	644	90%	85%	88%	88%	87%	100%	88%
	Iroquois Ridge North	1,475	74%	80%	82%	72%	69%	83%	76%
	Iroquois Ridge South	752	73%	70%	75%	70%	77%	78%	73%
	LaSalle	337	89%	93%	94%	89%	90%	50%	91%
	Limehouse	12	100%		100%		60%	100%	83%
	Milton Heights	25	100%	67%	100%	100%	45%		72%
	Moffat	32	100%	91%	86%	100%	100%	100%	94%
	Mountain View	100	96%	93%	91%	100%	67%		89%
	Mountainside	294	84%	85%	90%	92%	71%	33%	85%
	Nassagaweya	259	85%	88%	93%	93%	85%		89%
	Nelson	75	100%	90%	81%	79%	75%	100%	85%
	Old Milton	253	88%	100%	89%	91%	92%	86%	92%
	Old Oakville	1,612	87%	88%	89%	86%	82%	84%	87%
	Orchard	979	87%	87%	84%	85%	81%	63%	84%
	Palermo West	911	68%	71%	85%	76%	77%	59%	76%
	Palmer	352	81%	86%	89%	86%	80%	80%	85%
	River Oaks	1,654	80%	80%	86%	79%	79%	85%	81%
	Rose	718	93%	91%	91%	89%	90%	50%	91%
	Roseland	457	91%	98%	91%	98%	95%	50%	95%
	Rural Burlington	143	96%	91%	94%	96%	86%	75%	92%
	Rural Halton Hills	520	72%	81%	87%	82%	69%	75%	78%
	Rural Oakville	33	100%	50%	89%	75%	100%	50%	88%
	Scott	584		83%	67%	54%	65%	67%	64%
	Shoreacres	474	91%	78%	87%	91%	83%	50%	86%
	Stewarttown	29	86%	80%	82%	75%	50%		79%
	Tansley	433	91%	84%	81%	85%	66%	50%	82%
	Timberlea	533	91%	87%	93%	89%	85%	100%	89%
	Trafalgar	89	88%	92%	79%	82%	94%	100%	88%
	Tyandaga	305	92%	94%	94%	93%	86%	100%	92%
	Uptown	549	76%	75%	86%	82%	79%	100%	80%
	Uptown Core	823	64%	68%	79%	71%	59%	50%	69%
	Walker	34		33%	100%	80%	50%		56%
	West Oak Trails	3,758	82%	80%	83%	83%	74%	78%	81%
	Willmont	118	100%	0%	50%	62%	45%	33%	47%
	Winston Park	2	0%			100%			50%
Peel	Airport Road/Hwy 7 Bus. Centre	1				0%			0%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	Alton - Caledon	63	70%	75%	71%	56%	57%	100%	65%
	Applewood	1,982	53%	54%	47%	47%	45%	55%	49%
	Avondale	579	43%	48%	40%	45%	35%	57%	42%
	Bolton East	710	69%	72%	66%	66%	72%	80%	69%
	Bolton North	598	71%	77%	72%	73%	71%	44%	72%
	Bolton West	814	71%	70%	71%	70%	70%	73%	71%
	Bram East	2,203	32%	27%	30%	23%	23%	30%	27%
	Bram West	806	44%	42%	41%	37%	32%	40%	38%
	Bramalea North Industrial	212	23%	29%	36%	39%	16%	100%	30%
	Bramalea Road South Gateway	1					0%		0%
	Bramalea South Industrial	3		0%		0%	0%		0%
	Bramalea West Industrial	124	43%	28%	37%	13%	35%		31%
	Brampton 407 Corridor	14	100%	67%	100%	33%	0%		50%
	Brampton East	855	57%	70%	51%	68%	58%	55%	60%
	Brampton North	1,527	50%	52%	46%	43%	37%	32%	45%
	Brampton South	763	50%	56%	54%	57%	55%	58%	54%
	Brampton West	1,369	51%	51%	45%	43%	38%	60%	46%
	Caledon East	176	72%	77%	67%	54%	59%	40%	64%
	Caledon Village	89	80%	63%	70%	75%	72%		72%
	Central Erin Mills	2,806	55%	50%	51%	46%	45%	44%	49%
	Central Park	1,347	53%	50%	49%	48%	46%	45%	49%
	Cheltenham	31	50%	50%	55%	50%	67%	100%	55%
	Churchill Meadows	4,130	42%	41%	38%	36%	36%	36%	39%
	City Centre	5,190	42%	37%	36%	39%	32%	28%	37%
	Claireville Conservation	3	0%			50%			33%
	Clarkson	2,112	59%	54%	59%	61%	49%	45%	56%
	Cooksville	2,942	46%	46%	45%	45%	40%	51%	45%
	Credit Valley	744	42%	33%	30%	36%	27%	10%	31%
	Creditview	818	53%	43%	44%	39%	37%	21%	43%
	Dixie	71	73%	63%	75%	53%	58%	100%	65%
	Downtown Brampton	720	63%	61%	68%	50%	56%	42%	59%
	East Credit	4,061	46%	46%	44%	34%	39%	32%	42%
	Erin Mills	3,090	50%	47%	48%	51%	49%	53%	49%
	Erindale	1,691	46%	44%	45%	48%	46%	50%	46%
	Fairview	1,030	38%	37%	42%	39%	35%	44%	38%
	Fletchers Creek South	1,825	38%	39%	34%	38%	36%	36%	37%
	Fletchers Creek Village	904	48%	43%	40%	44%	31%	33%	41%
	Fletchers Meadow	5,512	42%	42%	38%	38%	33%	41%	39%
	Fletchers West	1,340	44%	36%	37%	35%	31%	11%	37%
	Gore Industrial North	217	24%	21%	11%	31%	20%	0%	21%
	Goreway Drive Corridor	123	38%	63%	61%	39%	34%	20%	43%
	Heart Lake	17			100%		31%	67%	41%
	Heart Lake East	763	51%	49%	54%	51%	51%	36%	51%
	Heart Lake West	1,261	45%	54%	53%	50%	46%	52%	49%
	Highway 427	3		100%			100%	0%	67%
	Hurontario	5,325	39%	41%	38%	36%	34%	36%	38%
	Huttonville	13	100%	100%		33%	100%		85%
	Inglewood	53	86%	100%	75%	67%	75%	100%	79%
	Lakeview - Mississauga	1,652	63%	63%	59%	56%	57%	68%	60%
	Lisgar	2,786	42%	39%	43%	44%	40%	40%	42%
	Lorne Park	1,031	66%	70%	73%	75%	71%	82%	71%
	Madoc	2,105	46%	40%	41%	35%	41%	38%	41%
	Malton	2,117	38%	34%	33%	29%	28%	32%	32%
	Mavis-Erindale	4					67%	100%	75%
	Meadowvale	3,271	48%	48%	48%	48%	46%	44%	47%
	Meadowvale Business Park	55	36%	53%	45%	67%	29%		45%
	Meadowvale Village	2,685	44%	46%	40%	40%	36%	41%	41%
	Mineola	782	68%	66%	58%	68%	64%	64%	65%
	Mississauga Valleys	1,981	42%	38%	43%	38%	39%	29%	40%
	Mono Mills	32	60%	67%	80%	80%	89%		78%
	Northeast	109	45%	43%	23%	23%	8%		29%
	Northgate	1,216	51%	48%	47%	49%	49%	59%	49%
	Northwest Brampton	54	57%	67%	43%	100%	31%	67%	44%
	Northwest Sandalwood Parkway	1,026	44%	46%	35%	42%	33%	39%	40%
	Northwood Park	750	53%	55%	51%	54%	38%	40%	50%
	Palgrave	235	81%	83%	82%	78%	84%	63%	81%
	Parkway Belt Industrial Area	2	0%			100%			50%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	Port Credit	696	63%	59%	53%	71%	62%	54%	62%
	Queen Street Corridor	1,526	44%	39%	37%	41%	38%	53%	40%
	Rathwood	1,573	43%	39%	44%	35%	35%	31%	39%
	Rural Caledon	1,296	73%	72%	73%	73%	74%	68%	73%
	Sandringham-Wellington	5,685	41%	35%	36%	29%	27%	23%	33%
	Sandringham-Wellington North	13			33%	0%	33%	67%	38%
	Sheridan	969	58%	56%	63%	45%	56%	56%	56%
	Sheridan Park	1					0%		0%
	Snelgrove	805	53%	55%	58%	53%	54%	59%	55%
	Southdown	1	0%						0%
	Southgate	1,058	51%	46%	46%	39%	39%	33%	44%
	Streetsville	943	46%	37%	46%	54%	51%	43%	47%
	Toronto Gore Rural Estate	113	42%	60%	60%	43%	45%	67%	50%
	Vales of Castlemore	891	36%	42%	37%	30%	30%	55%	35%
	Vales of Castlemore North	413	54%	44%	52%	62%	43%	33%	51%
	Westgate	782	53%	49%	52%	47%	46%	29%	49%
Toronto	Agincourt North	1,880	56%	53%	44%	45%	43%	26%	48%
	Agincourt South-Malvern West	1,457	54%	52%	50%	48%	46%	41%	50%
	Alderwood	826	57%	56%	56%	60%	57%	38%	57%
	Annex	2,012	80%	83%	77%	77%	78%	69%	79%
	Banbury-Don Mills	2,207	76%	72%	72%	64%	61%	64%	69%
	Bathurst Manor	815	65%	73%	65%	60%	52%	42%	62%
	Bay Street Corridor	2,980	70%	62%	59%	61%	60%	61%	62%
	Bayview Village	2,175	63%	58%	57%	55%	49%	57%	56%
	Bayview Woods-Steeles	594	60%	66%	69%	68%	56%	63%	63%
	Bedford Park-Nortown	1,690	83%	87%	86%	79%	81%	74%	83%
	Beechborough-Greenbrook	207	51%	48%	39%	39%	53%	60%	46%
	Bendale	2,453	50%	50%	50%	46%	40%	37%	47%
	Birchcliffe-Cliffside	1,768	47%	48%	44%	50%	52%	32%	48%
	Black Creek	595	43%	42%	38%	32%	44%	38%	39%
	Blake-Jones	551	58%	66%	60%	57%	40%	67%	56%
	Briar Hill-Belgravia	913	54%	50%	54%	51%	50%	40%	52%
	Bridle Path-Sunnybrook-York Mills	890	91%	83%	83%	82%	82%	93%	84%
	Broadview North	454	53%	55%	57%	57%	44%	0%	53%
	Brookhaven-Amesbury	664	38%	43%	45%	40%	38%	25%	40%
	Cabbagetown-South St. James Town	1,096	65%	69%	64%	64%	47%	54%	62%
	Caledonia-Fairbank	681	47%	41%	35%	46%	36%	62%	42%
	Casa Loma	608	84%	82%	88%	79%	81%	92%	83%
	Centennial Scarborough	774	51%	49%	45%	47%	53%	57%	49%
	Church-Yonge Corridor	3,438	63%	61%	68%	65%	55%	57%	62%
	Clairlea-Birchmount	1,343	43%	42%	46%	49%	36%	54%	43%
	Clanton Park	802	75%	66%	67%	65%	63%	62%	67%
	Cliffcrest	863	51%	49%	48%	48%	53%	50%	50%
	Corso Italia-Davenport	782	47%	49%	44%	51%	42%	33%	46%
	Crescent Town	715	48%	40%	38%	48%	41%	50%	43%
	Danforth	630	45%	38%	44%	52%	50%	75%	46%
	Danforth Village-East York	1,340	52%	55%	52%	56%	49%	47%	53%
	Don Valley Village	1,402	59%	54%	53%	47%	57%	40%	54%
	Dorset Park - Toronto	1,889	43%	43%	38%	37%	39%	40%	40%
	Dovercourt-Wallace Emerson-Junction	2,121	53%	54%	51%	52%	48%	62%	52%
	Downsview-Roding-CFB	1,330	56%	48%	49%	52%	56%	35%	52%
	Dufferin Grove	666	56%	55%	61%	53%	40%	50%	53%
	East End-Danforth	1,577	53%	55%	54%	58%	56%	65%	55%
	East York	578	54%	64%	62%	69%	51%	38%	59%
	Edenbridge-Humber Valley	674	79%	73%	72%	73%	72%	83%	74%
	Eglinton East	939	42%	44%	38%	33%	31%	29%	38%
	Elms-Old Rexdale	528	47%	51%	41%	43%	52%	46%	47%
	Englemount-Lawrence	803	74%	78%	68%	71%	65%	71%	71%
	Eringate-Centennial-West Deane	1,188	62%	62%	52%	55%	55%	67%	58%
	Etobicoke West Mall	642	54%	49%	53%	58%	58%	58%	55%
	Flemingdon Park	1,315	41%	39%	42%	43%	42%	46%	41%
	Forest Hill North	438	80%	73%	81%	91%	78%	100%	81%
	Forest Hill South	683	89%	83%	81%	80%	80%	76%	83%
	Glenfield-Jane Heights	1,130	46%	53%	45%	36%	37%	29%	43%
	Greenwood-Coxwell	1,346	43%	47%	45%	54%	47%	46%	47%
	Guildwood	720	65%	54%	56%	54%	54%	41%	56%
	Henry Farm	539	56%	52%	51%	38%	44%	67%	49%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	High Park North	906	67%	73%	70%	68%	58%	50%	67%
	High Park-Swansea	1,715	69%	69%	64%	66%	65%	58%	66%
	Highland Creek	535	49%	43%	47%	40%	48%	54%	46%
	Hillcrest Village	1,352	66%	64%	56%	53%	48%	56%	57%
	Humber Heights	557	68%	58%	62%	64%	56%	46%	61%
	Humber Summit	530	46%	47%	52%	37%	40%	56%	44%
	Humberlea-Pelmo Park W4	245	46%	67%	51%	42%	50%	0%	50%
	Humberlea-Pelmo Park W5	260	55%	39%	49%	25%	43%	33%	43%
	Humbermede	581	41%	45%	40%	45%	39%	36%	41%
	Humewood-Cedarvale	522	71%	72%	73%	83%	75%	75%	75%
	Ionview	520	46%	43%	46%	48%	38%	50%	44%
	Islington-City Centre West	3,623	58%	60%	59%	54%	56%	65%	57%
	Junction Area	876	50%	51%	54%	56%	54%	27%	53%
	Keelesdale-Eglinton West	869	37%	39%	40%	40%	37%	42%	39%
	Kennedy Park	1,085	49%	49%	37%	35%	47%	30%	43%
	Kensington-Chinatown	1,041	67%	59%	60%	60%	52%	45%	60%
	Kingsview Village-The Westway	1,188	55%	55%	46%	44%	46%	38%	49%
	Kingsway South	698	75%	81%	75%	72%	75%	100%	76%
	Lambton Baby Point	438	74%	70%	73%	81%	77%	0%	74%
	LAmoreaux	2,732	53%	47%	42%	43%	39%	45%	45%
	Lansing-Westgate	1,641	63%	61%	61%	61%	50%	58%	59%
	Lawrence Park North	1,412	82%	77%	78%	83%	83%	91%	80%
	Lawrence Park South	1,066	85%	91%	83%	83%	84%	77%	85%
	Leaside	1,242	84%	84%	81%	78%	67%	60%	79%
	Little Portugal	559	56%	51%	60%	58%	54%	40%	56%
	Long Branch	782	68%	64%	65%	63%	57%	33%	63%
	Malvern	3,113	40%	35%	40%	36%	32%	28%	36%
	Maple Leaf	268	61%	47%	40%	47%	47%	60%	49%
	Markland Wood	717	72%	69%	66%	61%	68%	61%	67%
	Milliken	1,823	54%	57%	49%	49%	48%	36%	51%
	Mimico	3,726	57%	57%	57%	60%	54%	51%	57%
	Morningside	1,066	49%	49%	47%	37%	43%	7%	45%
	Moss Park	1,929	55%	57%	65%	62%	55%	46%	59%
	Mount Dennis	780	46%	43%	51%	41%	43%	38%	45%
	Mount Olive-Silverstone-Jamestown	1,703	37%	38%	30%	33%	24%	43%	32%
	Mount Pleasant East	1,371	81%	83%	82%	78%	70%	82%	79%
	Mount Pleasant West	2,277	80%	75%	73%	71%	63%	82%	72%
	New Toronto	816	59%	63%	56%	59%	57%	60%	59%
	Newtonbrook East	1,884	59%	62%	55%	50%	44%	37%	53%
	Newtonbrook West	2,057	56%	55%	47%	49%	48%	42%	50%
	Niagara	5,642	63%	62%	61%	59%	49%	47%	58%
	North Riverdale	703	58%	62%	66%	61%	60%	71%	61%
	North St. James Town	404	59%	69%	60%	62%	59%	56%	60%
	Oakridge	475	38%	40%	38%	37%	40%	33%	38%
	Oakwood-Vaughan	1,271	55%	57%	51%	50%	54%	38%	53%
	OConnor-Parkview	784	56%	53%	43%	54%	48%	36%	50%
	Palmerston-Little Italy	671	57%	68%	62%	64%	64%	50%	62%
	Parkwoods-Donalda	1,293	69%	61%	58%	57%	57%	32%	60%
	Playter Estates-Danforth	363	53%	55%	59%	59%	49%	75%	55%
	Pleasant View	973	56%	58%	52%	48%	41%	38%	51%
	Princess-Rosethorn	669	82%	82%	78%	85%	76%	83%	80%
	Regent Park	251	86%	70%	74%	51%	56%	20%	63%
	Rexdale-Kipling	418	62%	55%	59%	57%	51%	9%	56%
	Rockcliffe-Smythe	1,453	44%	47%	42%	48%	47%	52%	46%
	Roncesvalles	934	69%	69%	69%	69%	60%	56%	67%
	Rosedale-Moore Park	1,820	85%	84%	86%	82%	82%	89%	84%
	Rouge E10	580	52%	48%	50%	45%	48%	25%	48%
	Rouge E11	2,215	40%	36%	31%	32%	32%	50%	34%
	Runnymede-Bloor West Village	804	69%	62%	57%	65%	69%	50%	64%
	Rustic	195	51%	57%	57%	34%	44%	100%	49%
	Scarborough Village	779	56%	45%	54%	41%	41%	11%	47%
	South Parkdale	590	74%	64%	62%	55%	58%	100%	63%
	South Riverdale	2,462	59%	51%	58%	52%	59%	54%	56%
	St. Andrew-Windfields	1,338	75%	79%	76%	75%	70%	81%	75%
	Steeles	1,677	56%	49%	56%	51%	49%	21%	52%
	Stonegate-Queensway	1,765	65%	67%	70%	71%	61%	48%	67%
	Tam OShanter-Sullivan	1,413	57%	48%	52%	48%	53%	25%	51%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	The Beaches	2,065	60%	62%	67%	63%	63%	63%	63%
	Thistletown-Beaumonde Heights	453	50%	48%	45%	38%	44%	40%	45%
	Thorncliffe Park	302	52%	52%	40%	42%	38%	75%	46%
	Trinity-Bellwoods	953	68%	63%	64%	63%	57%	46%	63%
	University	317	81%	73%	75%	74%	67%	67%	74%
	Victoria Village	821	51%	48%	44%	49%	56%	64%	50%
	Waterfront Communities C1	8,630	63%	58%	53%	53%	52%	52%	55%
	Waterfront Communities C8	1,001	64%	54%	69%	65%	58%	60%	63%
	West Hill	1,543	45%	41%	38%	47%	45%	36%	43%
	West Humber-Clairville	2,083	44%	39%	37%	33%	29%	34%	36%
	Westminster-Branson	1,336	54%	49%	55%	48%	47%	59%	51%
	Weston	1,154	50%	50%	56%	49%	51%	32%	51%
	Weston-Pellam Park	824	48%	44%	42%	35%	39%	69%	42%
	Wexford-Maryvale	1,345	50%	48%	51%	52%	43%	47%	49%
	Willowdale East	8,347	57%	57%	53%	49%	49%	41%	53%
	Willowdale West	2,052	60%	58%	56%	41%	43%	43%	51%
	Willowridge-Martingrove-Richview	830	57%	52%	67%	67%	61%	92%	61%
	Woburn	3,500	47%	50%	46%	43%	41%	36%	45%
	Woodbine Corridor	1,001	57%	53%	50%	62%	57%	56%	56%
	Woodbine-Lumsden	836	43%	39%	40%	56%	49%	45%	45%
	Wychwood	636	68%	70%	66%	76%	68%	70%	70%
	Yonge-Eglinton	593	88%	83%	85%	83%	77%	80%	83%
	Yonge-St. Clair	987	90%	90%	90%	84%	90%	100%	89%
	York University Heights	1,190	46%	49%	47%	39%	43%	46%	44%
	Yorkdale-Glen Park	638	56%	41%	47%	45%	44%	33%	47%
York	Aileen-Willowbrook	1,025	58%	49%	42%	52%	46%	37%	49%
	Angus Glen	300	87%	91%	76%	77%	79%	78%	81%
	Armitage	294	68%	73%	65%	70%	61%	88%	68%
	Aurora Estates	231	83%	80%	84%	80%	81%	83%	82%
	Aurora Grove	312	73%	70%	73%	63%	78%	67%	71%
	Aurora Heights	437	67%	68%	73%	67%	60%	63%	67%
	Aurora Highlands	1,101	74%	70%	71%	65%	68%	71%	70%
	Aurora Village	553	74%	79%	74%	70%	75%	78%	74%
	Baldwin	204	55%	56%	60%	63%	62%	83%	60%
	Ballantrae	267	82%	83%	68%	84%	71%	63%	76%
	Bayview Fairway-Bayview Country Club Estates	252	55%	35%	64%	70%	47%	75%	56%
	Bayview Glen	159	63%	83%	66%	86%	59%	50%	71%
	Bayview Hill	666	75%	69%	65%	77%	74%	88%	72%
	Bayview Northeast	633	62%	60%	67%	57%	57%	82%	61%
	Bayview Southeast	45	89%	100%	89%	83%	100%	100%	93%
	Bayview Wellington	944	62%	70%	66%	69%	65%	57%	66%
	Beaver Creek Business Park	216	80%	75%	58%	74%	61%	25%	68%
	Belhaven	65	50%	50%	46%	69%	83%	100%	60%
	Berczy	1,433	65%	61%	65%	68%	66%	80%	65%
	Beverley Glen	1,013	49%	53%	54%	53%	43%	58%	50%
	Box Grove	488	70%	51%	47%	49%	45%	40%	50%
	Bristol-London	778	69%	69%	63%	68%	61%	38%	65%
	Brownridge	1,267	58%	59%	55%	52%	47%	48%	54%
	Bullock	273	70%	73%	83%	77%	56%	40%	71%
	Buttonville	320	66%	67%	64%	64%	63%	0%	64%
	Cachet	693	74%	75%	68%	73%	67%	100%	71%
	Cathedraltown	204	56%	80%	52%	66%	58%	43%	58%
	Cedar Grove	24		100%	75%	44%	56%		58%
	Cedarwood	304	40%	50%	37%	28%	31%	20%	37%
	Central Newmarket	1,023	64%	64%	70%	64%	58%	60%	64%
	Commerce Valley	1,168	71%	61%	57%	57%	59%	78%	61%
	Concord	153	74%	59%	50%	58%	74%	50%	63%
	Cornell	1,527	67%	66%	61%	64%	56%	62%	62%
	Crestwood-Springfarm-Yorkhill	1,770	57%	59%	59%	58%	58%	63%	58%
	Crosby	967	56%	58%	51%	55%	44%	36%	52%
	Devils Elbow	113	63%	77%	52%	52%	39%		54%
	Devonsleigh	743	54%	61%	58%	43%	51%	67%	53%
	Doncrest	677	65%	60%	59%	58%	50%	57%	59%
	East Woodbridge	1,376	65%	70%	69%	59%	54%	58%	63%
	Elder Mills	132	63%	71%	64%	55%	59%	80%	63%
	Georgina Island	14			0%	0%	43%		21%
	German Mills	384	63%	72%	62%	59%	55%	40%	62%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	Glen Shields	308	44%	38%	50%	40%	50%	33%	45%
	Glenway Estates	274	63%	60%	70%	72%	73%	43%	67%
	Gorham-College Manor	938	69%	63%	63%	71%	61%	53%	66%
	Grandview	261	57%	64%	51%	59%	44%	20%	54%
	Greensborough	1,345	53%	59%	57%	49%	54%	39%	54%
	Harding	1,023	53%	51%	53%	49%	49%	48%	51%
	Headford Business Park	3					33%		33%
	Hills of St Andrew	217	84%	64%	85%	75%	79%	100%	79%
	Historic Lakeshore Communities	712	58%	68%	63%	67%	67%	50%	64%
	Holland Landing	486	71%	70%	69%	72%	64%	57%	69%
	Huron Heights-Leslie Valley	568	56%	71%	64%	70%	66%	20%	65%
	Islington Woods	444	64%	78%	67%	59%	75%	50%	68%
	Jefferson	1,282	56%	58%	56%	54%	43%	38%	52%
	Keswick North	914	60%	64%	67%	63%	62%	76%	63%
	Keswick South	1,463	56%	60%	64%	69%	70%	52%	63%
	King City	308	75%	76%	69%	80%	64%	64%	71%
	Kleinburg	275	90%	78%	74%	80%	68%		77%
	Lakeview Estates	497	56%	54%	45%	55%	41%	86%	50%
	Langstaff	2,423	58%	56%	50%	52%	46%	63%	53%
	Langstaff South	2			0%	0%			0%
	Legacy	184	58%	73%	63%	54%	56%	50%	61%
	Maple	2,486	54%	59%	59%	51%	52%	57%	55%
	Markham Village	733	73%	70%	77%	63%	76%	83%	72%
	Markville	611	69%	60%	67%	64%	62%	69%	65%
	Middlefield	1,208	49%	48%	53%	38%	41%	23%	46%
	Mill Pond	806	67%	59%	59%	68%	64%	71%	64%
	Milliken Mills East	1,407	58%	60%	54%	54%	49%	50%	55%
	Milliken Mills West	480	70%	59%	50%	50%	45%	60%	55%
	Mt Albert	409	79%	70%	72%	56%	68%	80%	68%
	Newmarket Industrial Park	8	67%				25%	0%	38%
	Nobleton	199	78%	72%	69%	71%	64%	83%	71%
	North Richvale	1,399	60%	55%	48%	50%	53%	44%	53%
	Oak Ridges	1,592	66%	68%	59%	58%	56%	67%	61%
	Oak Ridges Lake Wilcox	1,310	63%	64%	61%	55%	50%	50%	58%
	Observatory	709	55%	49%	47%	55%	44%	60%	50%
	Old Markham Village	236	72%	69%	69%	58%	77%	100%	69%
	Patterson	3,595	55%	54%	55%	49%	45%	36%	51%
	Pefferlaw	330	52%	55%	65%	60%	61%	63%	58%
	Pottageville	120	83%	53%	78%	74%	63%		73%
	Queensville	46	71%	75%	50%	80%	67%	50%	70%
	Raymerville	540	69%	71%	59%	66%	56%	63%	64%
	Rouge Fairways	138	50%	65%	53%	46%	39%	0%	50%
	Rouge River Estates	156	48%	46%	32%	52%	31%	0%	42%
	Rouge Woods	1,621	54%	60%	56%	52%	55%	69%	55%
	Royal Orchard	730	60%	48%	56%	58%	49%	13%	54%
	Rural East Gwillimbury	311	82%	65%	60%	66%	50%	100%	64%
	Rural King	498	79%	73%	74%	84%	76%	63%	77%
	Rural Markham	78	89%	60%	82%	68%	45%	100%	67%
	Rural Richmond Hill	107	71%	71%	91%	76%	65%	100%	76%
	Rural Vaughan	460	73%	66%	59%	53%	62%	50%	62%
	Rural Whitchurch-Stouffville	764	72%	67%	64%	66%	62%	71%	66%
	Schomberg	136	89%	79%	79%	78%	82%	83%	81%
	Sharon	197	76%	74%	73%	85%	72%	78%	77%
	Sherwood-Amberglen	202	69%	77%	79%	77%	78%	40%	75%
	Sonoma Heights	1,003	64%	58%	63%	62%	60%	64%	62%
	South Richvale	472	69%	69%	70%	57%	54%	88%	64%
	Steeles West Industrial	3		100%	50%				67%
	Stonehaven-Wyndham	893	76%	67%	71%	70%	51%	54%	67%
	Stouffville	1,878	65%	60%	61%	53%	57%	53%	58%
	Summerhill Estates	1,242	67%	67%	70%	67%	62%	48%	66%
	Sutton & Jacksons Point	610	58%	60%	57%	66%	64%	61%	61%
	Thornhill	468	65%	59%	50%	51%	42%	57%	53%
	Thornlea	270	64%	68%	52%	66%	56%	25%	61%
	Unionville	2,554	74%	76%	67%	69%	61%	57%	68%
	Uplands	382	66%	72%	65%	49%	62%	67%	63%
	Vaughan Grove	86	56%	65%	57%	43%	53%	33%	55%
	Vellore Village	3,338	58%	55%	58%	55%	50%	50%	55%

Exhibit 9b
Share of Listings Excluded from IDXs, by Community

Area	Community	# Sales Jan 07-Feb 12	2007	2008	2009	2010	2011	2012 (Jan - Feb)	2007 - 2012
	Victoria Manor-Jennings Gate	251	70%	51%	68%	60%	65%	100%	64%
	Victoria Square	84	56%	100%	61%	63%	66%	50%	64%
	Village Green-South Unionville	605	54%	51%	50%	44%	45%	64%	49%
	Vinegar Hill	122	61%	45%	39%	45%	28%	50%	43%
	Virginia	215	61%	63%	62%	74%	57%	100%	64%
	West Woodbridge	949	64%	62%	58%	55%	58%	58%	59%
	West Woodbridge Industrial Area	3	100%			0%	100%		67%
	Westbrook	1,195	62%	71%	53%	54%	49%	44%	57%
	Wismer	1,198	63%	64%	59%	55%	51%	72%	58%
	Woodland Hill	909	69%	65%	62%	56%	58%	80%	61%

Source: MLS Data; sold transactions.

Notes

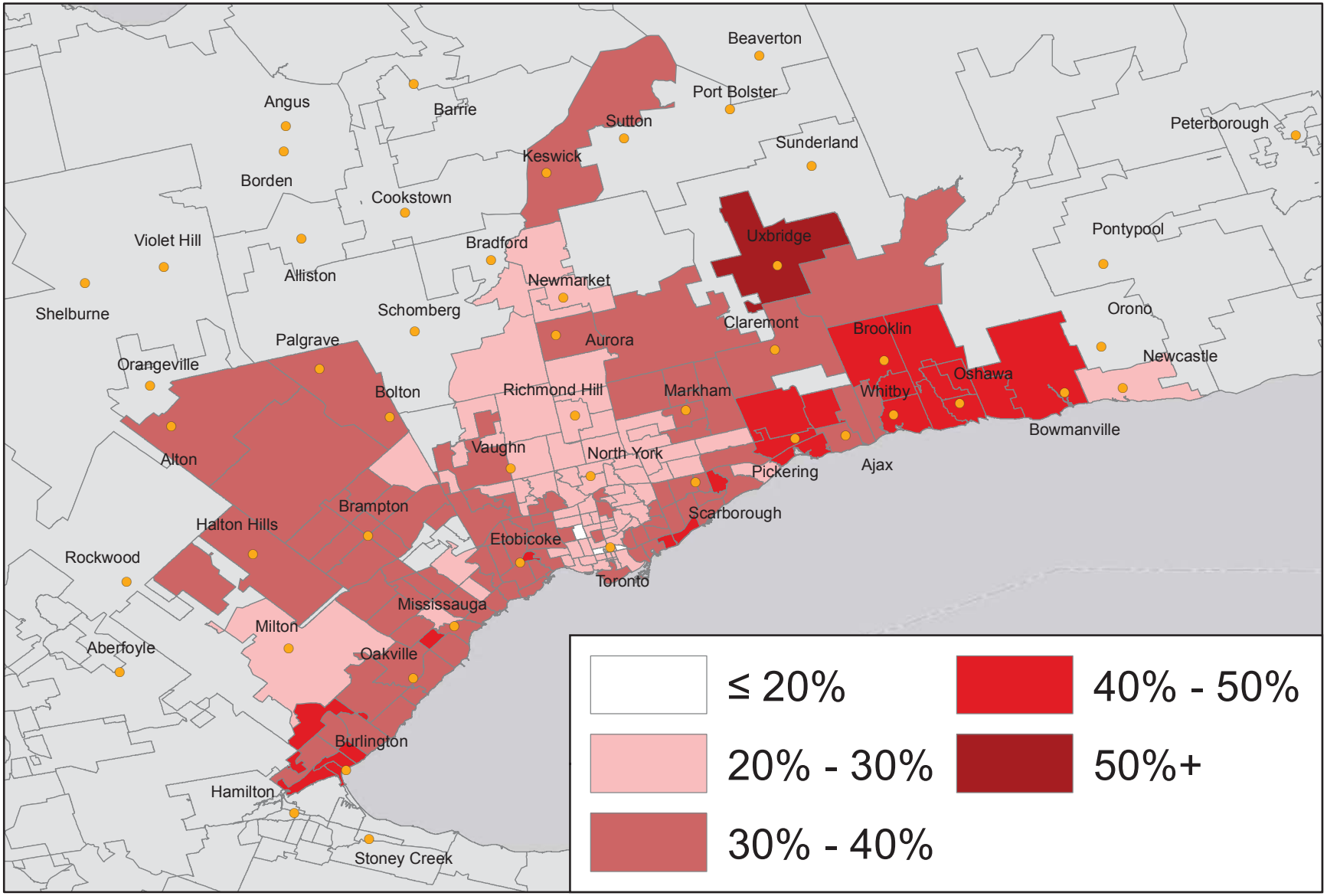
Based on homes sold in the Greater Toronto Area between Jan 2007 and Feb 2012.

Analysis based on communities, as identified in the MLS dataset.

IDX exclusion defined as listings for which "Permission to Advertise" = No.

Missing entries are treated as "Permission to Advertise" = No. This occurs in fewer than 1% of the records in all areas except Halton, where the share of missing records is about 50%.

Exhibit 10a: Top Selling Corporate Brokerage's Market Share



Notes:
1) Top selling brokerage may differ across FSAs.
1) Map by postal FSAs in the Greater Toronto Area.
2) Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.
3) FSAs with fewer than 50 transactions excluded (they represent less than 0.5% of all transactions).
Rural FSAs (i.e., FSAs with zero as their second character) excluded (they represent less than 1.5% of all transactions).

Source: MLS data; sold transactions.

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
Durham	Amberlea	983	41%	16%	16%	9%	6%	88%
	Bay Ridges	600	41%	18%	12%	11%	4%	85%
	Beaverton	370	41%	41%	8%	6%	2%	97%
	Blackstock	68	40%	28%	7%	7%	6%	88%
	Blue Grass Meadows	961	44%	14%	12%	9%	5%	84%
	Bowmanville	3,971	45%	13%	8%	7%	7%	79%
	Brock Industrial	2	100%					100%
	Brock Ridge	537	37%	20%	9%	9%	8%	84%
	Brooklin	1,732	41%	19%	11%	8%	7%	86%
	Cannington	214	45%	20%	20%	5%	3%	
	Centennial	1,074	41%	12%	11%	9%	9%	82%
	Central - Ajax	1,660	40%	19%	12%	10%	5%	85%
	Central - Oshawa	1,043	43%	12%	10%	9%	8%	81%
	Central East	275	36%	17%	11%	8%	5%	76%
	Central West	1,685	43%	18%	12%	9%	4%	87%
	Columbus	22	23%	23%	14%	14%	9%	82%
	Courtice	2,286	44%	10%	9%	9%	8%	80%
	Donevan	1,067	45%	11%	11%	10%	9%	85%
	Downtown Whitby	951	37%	21%	13%	9%	5%	85%
	Duffin Heights	6	33%	17%	17%	17%	17%	100%
	Dunbarton	178	44%	17%	14%	11%	4%	90%
	Eastdale	1,044	45%	10%	10%	9%	9%	83%
	Farewell	94	44%	12%	9%	7%	7%	79%
	Highbush	505	43%	20%	10%	7%	7%	88%
	Kedron	82	43%	16%	10%	10%	10%	88%
	Lakeview - Oshawa	1,328	40%	14%	10%	9%	9%	82%
	Liverpool	1,256	45%	17%	13%	9%	5%	88%
	Lynde Creek	776	44%	17%	12%	11%	4%	89%
	McLaughlin	868	41%	14%	12%	9%	6%	82%
	Newcastle	734	27%	26%	16%	8%	6%	84%
	Northeast Ajax	1,011	34%	20%	11%	9%	6%	80%
	Northglen	343	45%	16%	10%	6%	6%	84%
	Northwest Ajax	1,190	39%	16%	11%	8%	6%	80%
	Northwood	13	62%	15%	8%	8%	8%	100%
	ONeill	1,255	42%	13%	13%	10%	9%	86%
	Orono	92	27%	21%	18%	11%	7%	84%
	Pinecrest	1,108	39%	12%	11%	11%	9%	81%
	Port Perry	752	39%	31%	10%	8%	3%	91%
	Port Whitby	686	50%	14%	10%	8%	5%	88%
	Pringle Creek	1,895	39%	17%	12%	11%	5%	85%
	Raglan	20	25%	20%	15%	15%	10%	85%
	Rolling Acres	1,176	43%	12%	11%	10%	6%	82%
	Rosebank	163	40%	19%	15%	9%	6%	88%
	Rouge Park	96	46%	19%	15%	4%	4%	88%
	Rougemount	202	36%	23%	16%	10%	3%	87%
	Rural Brock	274	46%	18%	14%	11%	3%	92%
	Rural Clarington	820	39%	20%	10%	7%	5%	81%
	Rural Oshawa	47	36%	19%	17%	9%	6%	87%
	Rural Pickering	234	36%	25%	16%	8%	3%	89%
	Rural Scugog	873	39%	24%	11%	10%	4%	88%
	Rural Uxbridge	566	43%	15%	13%	8%	6%	86%
	Rural Whitby	166	36%	25%	13%	10%	5%	89%
	Samac	1,248	44%	11%	10%	9%	8%	81%
	South East	1,926	44%	15%	12%	12%	3%	85%
	South West	883	34%	17%	16%	13%	4%	84%
	Stevenson	22	23%	23%	14%	14%	5%	77%
	Sunderland	105	52%	19%	11%	9%	4%	95%
	Taunton	569	46%	11%	9%	8%	8%	83%
	Taunton North	720	40%	13%	11%	10%	8%	82%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Town Centre	625	42%	18%	14%	12%	4%	90%
	Uxbridge	974	54%	15%	11%	7%	3%	90%
	Vanier	893	40%	14%	12%	10%	9%	85%
	Village East	671	39%	18%	14%	11%	5%	86%
	West Shore	518	46%	15%	11%	11%	3%	86%
	Whitby Industrial	9	33%	22%	11%	11%	11%	89%
	Williamsburg	1,345	36%	19%	11%	10%	8%	84%
	Windfields	170	37%	12%	12%	11%	11%	82%
	Woodlands	188	37%	20%	11%	10%	7%	85%
Halton	401 Business Park	23	39%	22%	9%	9%	9%	87%
	Acton	1,012	38%	22%	18%	5%	3%	86%
	Alton - Burlington	639	26%	24%	14%	6%	5%	76%
	Appleby	1,056	32%	27%	17%	8%	4%	87%
	Bayview	170	50%	25%	11%	7%	2%	95%
	Beaty	2,309	28%	25%	15%	9%	6%	83%
	Bowes	1	100%					100%
	Brant	759	45%	25%	10%	7%	3%	90%
	Brant Hills	522	34%	25%	15%	14%	2%	89%
	Bronte East	1,011	30%	29%	15%	9%	4%	88%
	Bronte Meadows	507	36%	32%	12%	4%	3%	86%
	Bronte West	2,077	36%	29%	14%	5%	5%	88%
	Brookville	64	38%	30%	14%	9%	3%	94%
	Campbellville	94	39%	35%	13%	4%	2%	94%
	Clarke	1,411	29%	24%	12%	7%	5%	78%
	Clearview	520	44%	29%	6%	5%	3%	88%
	Coates	1,005	24%	20%	17%	7%	6%	75%
	Cobban	1	100%					100%
	College Park	1,056	34%	27%	15%	5%	4%	85%
	Dempsey	1,180	32%	26%	9%	7%	6%	80%
	Derry Green Business Park	4	50%	25%	25%			100%
	Dorset Park - Milton	454	38%	37%	11%	3%	2%	91%
	Eastlake	1,100	37%	34%	18%	4%	2%	94%
	Esquesing	7	71%	14%	14%			100%
	Freeman	79	32%	29%	11%	9%	4%	85%
	Georgetown	3,362	38%	30%	14%	4%	3%	88%
	Glen Abbey	1,978	37%	29%	13%	5%	4%	88%
	Glen Williams	91	48%	23%	18%	2%	1%	92%
	Grindstone	18	44%	33%	11%	6%	6%	100%
	Harrison	797	26%	23%	16%	8%	7%	79%
	Headon	644	38%	27%	12%	10%	2%	88%
	Iroquois Ridge North	1,475	34%	33%	10%	5%	3%	86%
	Iroquois Ridge South	752	42%	26%	6%	6%	5%	85%
	LaSalle	337	40%	34%	9%	8%	1%	93%
	Limehouse	12	58%	25%	17%			100%
	Milton Heights	25	48%	24%	8%	4%	4%	88%
	Moffat	32	63%	25%	6%	3%	3%	100%
	Mountain View	100	45%	27%	9%	4%	3%	88%
	Mountainside	294	34%	27%	16%	10%	3%	90%
	Nassagaweya	259	42%	33%	7%	5%	2%	89%
	Nelson	75	47%	36%	8%	3%	3%	96%
	Old Milton	253	43%	37%	8%	3%	2%	93%
	Old Oakville	1,612	35%	31%	17%	7%	3%	92%
	Orchard	979	34%	31%	12%	5%	2%	84%
	Palermo West	911	38%	35%	8%	4%	2%	87%
	Palmer	352	33%	25%	16%	9%	3%	86%
	River Oaks	1,654	39%	30%	9%	6%	5%	89%
	Rose	718	48%	27%	11%	4%	2%	92%
	Roseland	457	49%	24%	10%	7%	2%	92%
	Rural Burlington	143	45%	34%	8%	4%	3%	95%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Rural Halton Hills	520	35%	22%	20%	5%	3%	85%
	Rural Oakville	33	36%	30%	21%	3%	3%	94%
	Scott	584	30%	23%	12%	7%	6%	77%
	Shoreacres	474	36%	27%	12%	7%	3%	86%
	Stewarttown	29	52%	21%	14%	3%	3%	93%
	Tansley	433	34%	27%	13%	7%	3%	83%
	Timberlea	533	38%	33%	11%	5%	3%	89%
	Trafalgar	89	38%	38%	7%	7%	3%	93%
	Tyandaga	305	50%	22%	14%	4%	1%	92%
	Uptown	549	30%	26%	16%	6%	3%	82%
	Uptown Core	823	37%	31%	9%	6%	3%	86%
	Walker	34	26%	18%	18%	12%	6%	79%
	West Oak Trails	3,758	36%	30%	10%	5%	5%	86%
	Willmont	118	32%	14%	12%	8%	7%	73%
	Winston Park	2	50%	50%				100%
Peel	Airport Road/Hwy 7 Bus. Centre	1	100%					100%
	Alton - Caledon	63	33%	17%	14%	11%	6%	83%
	Applewood	1,982	28%	24%	16%	11%	4%	83%
	Avondale	579	36%	15%	12%	12%	6%	81%
	Bolton East	710	32%	30%	16%	5%	4%	87%
	Bolton North	598	38%	26%	15%	5%	3%	86%
	Bolton West	814	30%	30%	15%	6%	4%	84%
	Bram East	2,203	32%	23%	13%	11%	5%	84%
	Bram West	806	39%	14%	13%	10%	7%	82%
	Bramalea North Industrial	212	30%	29%	11%	9%	4%	84%
	Bramalea Road South Gateway	1	100%					100%
	Bramalea South Industrial	3	67%	33%				100%
	Bramalea West Industrial	124	31%	22%	21%	8%	7%	89%
	Brampton 407 Corridor	14	29%	21%	14%	14%	7%	86%
	Brampton East	855	41%	19%	13%	5%	5%	83%
	Brampton North	1,527	39%	11%	11%	11%	9%	80%
	Brampton South	763	44%	13%	13%	7%	6%	82%
	Brampton West	1,369	36%	12%	12%	10%	9%	80%
	Caledon East	176	43%	20%	14%	6%	5%	87%
	Caledon Village	89	33%	27%	21%	4%	3%	89%
	Central Erin Mills	2,806	38%	22%	10%	7%	6%	82%
	Central Park	1,347	40%	12%	11%	10%	9%	82%
	Cheltenham	31	45%	10%	10%	10%	6%	81%
	Churchill Meadows	4,130	41%	15%	9%	8%	7%	81%
	City Centre	5,190	34%	15%	11%	9%	9%	78%
	Claireville Conservation	3	33%	33%	33%			100%
	Clarkson	2,112	33%	26%	14%	6%	5%	83%
	Cooksville	2,942	34%	18%	11%	10%	8%	82%
	Credit Valley	744	31%	14%	11%	11%	7%	75%
	Creditview	818	32%	17%	14%	10%	9%	83%
	Dixie	71	49%	20%	4%	4%	4%	82%
	Downtown Brampton	720	38%	19%	12%	4%	4%	78%
	East Credit	4,061	36%	17%	10%	9%	8%	80%
	Erin Mills	3,090	35%	26%	11%	5%	5%	82%
	Erindale	1,691	31%	22%	13%	9%	6%	81%
	Fairview	1,030	31%	14%	12%	11%	10%	78%
	Fletchers Creek South	1,825	35%	23%	10%	10%	6%	85%
	Fletchers Creek Village	904	40%	14%	11%	9%	7%	81%
	Fletchers Meadow	5,512	38%	13%	11%	9%	7%	78%
	Fletchers West	1,340	35%	18%	12%	10%	9%	85%
	Gore Industrial North	217	32%	32%	12%	6%	6%	87%
	Goreway Drive Corridor	123	36%	11%	11%	10%	8%	76%
	Heart Lake	17	29%	24%	18%	12%	6%	88%
	Heart Lake East	763	37%	15%	13%	9%	8%	82%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Heart Lake West	1,261	42%	14%	11%	9%	7%	82%
	Highway 427	3	33%	33%	33%			100%
	Hurontario	5,325	37%	16%	10%	10%	9%	81%
	Huttonville	13	46%	23%	8%	8%	8%	92%
	Inglewood	53	40%	15%	13%	11%	9%	89%
	Lakeview - Mississauga	1,652	30%	24%	17%	5%	4%	80%
	Lisgar	2,786	39%	20%	9%	8%	6%	82%
	Lorne Park	1,031	39%	36%	10%	2%	2%	90%
	Madoc	2,105	37%	17%	13%	9%	7%	82%
	Malton	2,117	34%	25%	12%	7%	7%	86%
	Mavis-Erindale	4	75%	25%				100%
	Meadowvale	3,271	39%	24%	8%	7%	5%	83%
	Meadowvale Business Park	55	33%	24%	11%	7%	5%	80%
	Meadowvale Village	2,685	38%	17%	11%	9%	8%	84%
	Mineola	782	35%	28%	19%	4%	2%	88%
	Mississauga Valleys	1,981	33%	19%	12%	11%	6%	82%
	Mono Mills	32	31%	25%	19%	9%	9%	94%
	Northeast	109	30%	30%	13%	6%	6%	86%
	Northgate	1,216	40%	11%	11%	10%	9%	81%
	Northwest Brampton	54	39%	19%	9%	9%	6%	81%
	Northwest Sandalwood Parkway	1,026	42%	12%	11%	11%	7%	82%
	Northwood Park	750	37%	12%	12%	10%	7%	79%
	Palgrave	235	50%	23%	12%	3%	3%	90%
	Parkway Belt Industrial Area	2	50%	50%				100%
	Port Credit	696	41%	28%	12%	3%	3%	86%
	Queen Street Corridor	1,526	36%	17%	12%	10%	9%	84%
	Rathwood	1,573	29%	19%	17%	9%	7%	82%
	Rural Caledon	1,296	37%	19%	9%	7%	5%	76%
	Sandringham-Wellington	5,685	36%	23%	11%	8%	7%	86%
	Sandringham-Wellington North	13	54%	8%	8%	8%	8%	85%
	Sheridan	969	38%	28%	10%	6%	4%	86%
	Sheridan Park	1	100%					100%
	Snelgrove	805	44%	14%	12%	6%	4%	80%
	Southdown	1	100%					100%
	Southgate	1,058	38%	14%	14%	11%	5%	84%
	Streetsville	943	36%	24%	16%	6%	4%	86%
	Toronto Gore Rural Estate	113	30%	19%	11%	10%	8%	77%
	Vales of Castlemore	891	36%	21%	10%	8%	7%	83%
	Vales of Castlemore North	413	42%	17%	10%	9%	5%	83%
	Westgate	782	39%	13%	13%	11%	7%	83%
Toronto	Agincourt North	1,880	25%	23%	21%	5%	3%	77%
	Agincourt South-Malvern West	1,457	23%	22%	20%	5%	3%	75%
	Alderwood	826	32%	18%	13%	8%	6%	77%
	Annex	2,012	24%	15%	10%	9%	5%	63%
	Banbury-Don Mills	2,207	30%	18%	10%	8%	6%	72%
	Bathurst Manor	815	28%	14%	10%	10%	8%	69%
	Bay Street Corridor	2,980	23%	14%	11%	8%	7%	63%
	Bayview Village	2,175	23%	15%	14%	13%	4%	69%
	Bayview Woods-Steeles	594	33%	15%	13%	9%	4%	73%
	Bedford Park-Nortown	1,690	21%	19%	18%	7%	7%	73%
	Beechborough-Greenbrook	207	38%	17%	17%	10%	4%	87%
	Bendale	2,453	32%	19%	17%	8%	3%	79%
	Birchcliffe-Cliffside	1,768	45%	26%	7%	4%	3%	86%
	Black Creek	595	29%	19%	11%	10%	7%	76%
	Blake-Jones	551	35%	15%	10%	7%	5%	73%
	Briar Hill-Belgravia	913	28%	15%	12%	11%	11%	77%
	Bridle Path-Sunnybrook-York Mills	890	22%	18%	16%	12%	4%	72%
	Broadview North	454	33%	19%	15%	6%	4%	78%
	Brookhaven-Amesbury	664	38%	14%	13%	10%	6%	81%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Cabbagetown-South St. James Town	1,096	22%	20%	17%	7%	6%	71%
	Caledonia-Fairbank	681	37%	19%	11%	10%	8%	85%
	Casa Loma	608	25%	18%	12%	10%	10%	74%
	Centennial Scarborough	774	28%	24%	12%	11%	5%	81%
	Church-Yonge Corridor	3,438	22%	20%	11%	7%	6%	66%
	Clairlea-Birchmount	1,343	35%	16%	14%	9%	4%	78%
	Clanton Park	802	31%	13%	10%	6%	6%	66%
	Cliffcrest	863	39%	22%	18%	5%	2%	86%
	Corso Italia-Davenport	782	33%	18%	12%	9%	7%	79%
	Crescent Town	715	37%	15%	11%	11%	4%	79%
	Danforth	630	45%	14%	10%	7%	5%	81%
	Danforth Village-East York	1,340	39%	17%	9%	7%	5%	77%
	Don Valley Village	1,402	29%	16%	15%	13%	3%	76%
	Dorset Park - Toronto	1,889	32%	21%	20%	8%	3%	83%
	Dovercourt-Wallace Emerson-Junction	2,121	29%	18%	10%	10%	8%	74%
	Downsview-Roding-CFB	1,330	33%	14%	13%	9%	9%	79%
	Dufferin Grove	666	31%	19%	10%	8%	8%	76%
	East End-Danforth	1,577	42%	21%	6%	6%	4%	79%
	East York	578	36%	20%	10%	6%	5%	77%
	Edenbridge-Humber Valley	674	45%	28%	8%	4%	3%	88%
	Eglinton East	939	32%	22%	18%	9%	4%	85%
	Elms-Old Rexdale	528	34%	16%	11%	9%	7%	77%
	Englemount-Lawrence	803	21%	16%	14%	8%	7%	66%
	Eringate-Centennial-West Deane	1,188	34%	23%	15%	6%	6%	84%
	Etobicoke West Mall	642	31%	21%	14%	9%	7%	83%
	Flemingdon Park	1,315	26%	20%	16%	12%	5%	79%
	Forest Hill North	438	21%	17%	15%	11%	5%	69%
	Forest Hill South	683	22%	18%	16%	10%	10%	76%
	Glenfield-Jane Heights	1,130	30%	14%	12%	11%	9%	76%
	Greenwood-Coxwell	1,346	34%	21%	8%	6%	5%	74%
	Guildwood	720	37%	23%	11%	10%	5%	87%
	Henry Farm	539	28%	14%	12%	12%	5%	71%
	High Park North	906	35%	27%	15%	4%	4%	85%
	High Park-Swansea	1,715	31%	23%	14%	11%	5%	84%
	Highland Creek	535	30%	20%	13%	9%	5%	77%
	Hillcrest Village	1,352	29%	16%	13%	8%	4%	69%
	Humber Heights	557	34%	26%	12%	8%	5%	85%
	Humber Summit	530	26%	20%	15%	13%	7%	80%
	Humberlea-Pelmo Park W4	245	44%	17%	10%	6%	5%	82%
	Humberlea-Pelmo Park W5	260	36%	22%	11%	10%	6%	85%
	Humbermede	581	32%	18%	12%	11%	8%	80%
	Humewood-Cedarvale	522	20%	17%	15%	10%	8%	69%
	Ionview	520	38%	16%	13%	12%	3%	82%
	Islington-City Centre West	3,623	33%	22%	12%	10%	6%	83%
	Junction Area	876	30%	25%	13%	7%	6%	81%
	Keelesdale-Eglinton West	869	42%	18%	13%	10%	5%	87%
	Kennedy Park	1,085	35%	19%	14%	14%	4%	85%
	Kensington-Chinatown	1,041	24%	17%	9%	8%	8%	66%
	Kingsview Village-The Westway	1,188	33%	17%	15%	11%	9%	85%
	Kingsway South	698	47%	24%	11%	3%	3%	88%
	Lambton Baby Point	438	50%	23%	7%	4%	3%	86%
	LAmoreaux	2,732	28%	20%	19%	8%	4%	78%
	Lansing-Westgate	1,641	25%	12%	11%	11%	6%	66%
	Lawrence Park North	1,412	28%	21%	9%	7%	7%	71%
	Lawrence Park South	1,066	30%	19%	15%	8%	6%	78%
	Leaside	1,242	26%	20%	17%	9%	8%	82%
	Little Portugal	559	31%	17%	12%	11%	6%	77%
	Long Branch	782	31%	23%	11%	7%	5%	76%
	Malvern	3,113	29%	26%	20%	6%	3%	84%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Maple Leaf	268	32%	16%	12%	11%	10%	81%
	Markland Wood	717	33%	27%	22%	5%	3%	91%
	Milliken	1,823	27%	24%	21%	3%	3%	78%
	Mimico	3,726	32%	22%	9%	8%	5%	76%
	Morningside	1,066	32%	22%	13%	9%	4%	80%
	Moss Park	1,929	21%	21%	10%	6%	6%	64%
	Mount Dennis	780	36%	16%	12%	11%	8%	83%
	Mount Olive-Silverstone-Jamestown	1,703	31%	26%	11%	9%	8%	85%
	Mount Pleasant East	1,371	25%	24%	11%	10%	7%	79%
	Mount Pleasant West	2,277	24%	21%	8%	6%	6%	65%
	New Toronto	816	26%	26%	12%	7%	5%	77%
	Newtonbrook East	1,884	30%	16%	15%	8%	5%	74%
	Newtonbrook West	2,057	25%	16%	14%	10%	8%	72%
	Niagara	5,642	24%	21%	11%	7%	6%	69%
	North Riverdale	703	32%	17%	14%	10%	5%	77%
	North St. James Town	404	17%	13%	12%	12%	8%	62%
	Oakridge	475	40%	15%	14%	7%	4%	80%
	Oakwood-Vaughan	1,271	30%	17%	14%	8%	6%	75%
	OConnor-Parkview	784	36%	18%	14%	7%	6%	81%
	Palmerston-Little Italy	671	25%	17%	13%	7%	6%	69%
	Parkwoods-Donalda	1,293	29%	20%	11%	10%	5%	75%
	Playter Estates-Danforth	363	36%	19%	15%	9%	4%	82%
	Pleasant View	973	29%	17%	17%	9%	4%	76%
	Princess-Rosethorn	669	38%	37%	12%	3%	2%	93%
	Regent Park	251	21%	18%	10%	8%	7%	63%
	Rexdale-Kipling	418	38%	13%	12%	10%	6%	80%
	Rockcliffe-Smythe	1,453	36%	17%	15%	11%	5%	84%
	Roncesvalles	934	24%	22%	17%	6%	5%	73%
	Rosedale-Moore Park	1,820	26%	23%	10%	8%	7%	74%
	Rouge E10	580	30%	23%	15%	11%	5%	83%
	Rouge E11	2,215	34%	25%	17%	8%	3%	87%
	Runnymede-Bloor West Village	804	38%	31%	12%	3%	2%	86%
	Rustic	195	36%	16%	12%	11%	6%	81%
	Scarborough Village	779	36%	18%	14%	10%	3%	81%
	South Parkdale	590	29%	19%	13%	9%	7%	77%
	South Riverdale	2,462	35%	14%	7%	6%	6%	68%
	St. Andrew-Windfields	1,338	28%	14%	11%	8%	7%	67%
	Steeles	1,677	24%	22%	18%	4%	4%	73%
	Stonegate-Queensway	1,765	39%	27%	12%	6%	4%	88%
	Tam OShanter-Sullivan	1,413	26%	20%	19%	7%	3%	75%
	The Beaches	2,065	44%	30%	4%	4%	3%	85%
	Thistletown-Beaumonde Heights	453	37%	15%	14%	10%	7%	83%
	Thorncliffe Park	302	22%	21%	15%	10%	8%	76%
	Trinity-Bellwoods	953	28%	16%	11%	8%	6%	69%
	University	317	15%	15%	12%	8%	6%	56%
	Victoria Village	821	33%	22%	19%	8%	3%	85%
	Waterfront Communities C1	8,630	26%	12%	12%	9%	6%	65%
	Waterfront Communities C8	1,001	21%	16%	12%	7%	7%	63%
	West Hill	1,543	35%	18%	15%	9%	5%	82%
	West Humber-Clairville	2,083	33%	21%	11%	9%	8%	82%
	Westminster-Branson	1,336	20%	14%	14%	11%	11%	71%
	Weston	1,154	35%	15%	10%	10%	8%	80%
	Weston-Pellam Park	824	35%	16%	14%	10%	8%	83%
	Wexford-Maryvale	1,345	32%	22%	15%	10%	4%	84%
	Willowdale East	8,347	25%	19%	16%	9%	4%	73%
	Willowdale West	2,052	24%	16%	16%	10%	6%	71%
	Willowridge-Martingrove-Richview	830	39%	23%	12%	7%	6%	86%
	Woburn	3,500	35%	17%	17%	8%	3%	81%
	Woodbine Corridor	1,001	42%	22%	8%	4%	4%	80%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Woodbine-Lumsden	836	38%	15%	13%	6%	6%	79%
	Wychwood	636	17%	17%	17%	7%	5%	64%
	Yonge-Eglinton	593	26%	24%	11%	7%	6%	74%
	Yonge-St. Clair	987	36%	14%	10%	7%	7%	74%
	York University Heights	1,190	22%	21%	13%	12%	11%	78%
	Yorkdale-Glen Park	638	35%	15%	12%	10%	6%	77%
York	Aileen-Willowbrook	1,025	27%	18%	14%	11%	4%	74%
	Angus Glen	300	40%	20%	17%	7%	4%	88%
	Armitage	294	31%	23%	16%	12%	6%	87%
	Aurora Estates	231	43%	27%	6%	4%	3%	83%
	Aurora Grove	312	35%	21%	20%	6%	5%	86%
	Aurora Heights	437	33%	32%	11%	7%	3%	86%
	Aurora Highlands	1,101	33%	31%	9%	6%	5%	83%
	Aurora Village	553	32%	30%	12%	7%	3%	84%
	Baldwin	204	37%	20%	11%	11%	7%	87%
	Ballantrae	267	42%	24%	9%	7%	7%	89%
	Bayview Fairway-Bayview Country Club Estates	252	33%	14%	12%	8%	6%	73%
	Bayview Glen	159	26%	23%	9%	9%	8%	75%
	Bayview Hill	666	19%	19%	17%	16%	7%	78%
	Bayview Northeast	633	26%	17%	17%	13%	7%	80%
	Bayview Southeast	45	40%	18%	16%	4%	2%	80%
	Bayview Wellington	944	31%	25%	13%	8%	8%	84%
	Beaver Creek Business Park	216	20%	19%	15%	12%	6%	72%
	Belhaven	65	45%	15%	11%	6%	6%	83%
	Berczy	1,433	34%	18%	18%	5%	5%	80%
	Beverley Glen	1,013	30%	15%	11%	11%	10%	78%
	Box Grove	488	33%	21%	17%	7%	3%	81%
	Bristol-London	778	26%	24%	18%	13%	6%	87%
	Brownridge	1,267	24%	15%	14%	12%	11%	76%
	Bullock	273	34%	23%	13%	10%	5%	84%
	Buttonville	320	29%	22%	16%	9%	5%	81%
	Cachet	693	31%	19%	15%	8%	5%	79%
	Cathedraltown	204	30%	12%	12%	6%	6%	67%
	Cedar Grove	24	25%	25%	13%	4%	4%	71%
	Cedarwood	304	35%	29%	17%	3%	3%	88%
	Central Newmarket	1,023	26%	26%	17%	14%	6%	89%
	Commerce Valley	1,168	24%	18%	18%	7%	5%	72%
	Concord	153	32%	23%	10%	9%	5%	80%
	Cornell	1,527	35%	23%	12%	9%	6%	85%
	Crestwood-Springfarm-Yorkhill	1,770	26%	12%	12%	12%	10%	71%
	Crosby	967	25%	19%	18%	14%	6%	82%
	Devils Elbow	113	24%	22%	15%	12%	6%	79%
	Devonsleigh	743	29%	20%	14%	13%	4%	80%
	Doncrest	677	25%	21%	16%	8%	5%	74%
	East Woodbridge	1,376	35%	20%	11%	10%	5%	81%
	Elder Mills	132	39%	16%	8%	6%	4%	73%
	Georgina Island	14	57%	14%	7%	7%	7%	93%
	German Mills	384	33%	15%	12%	11%	3%	74%
	Glen Shields	308	28%	20%	15%	10%	8%	81%
	Glenway Estates	274	28%	26%	15%	11%	8%	88%
	Gorham-College Manor	938	29%	25%	16%	14%	5%	88%
	Grandview	261	29%	16%	14%	12%	6%	76%
	Greensborough	1,345	33%	21%	14%	9%	6%	84%
	Harding	1,023	25%	20%	17%	15%	5%	82%
	Headford Business Park	3	33%	33%	33%			100%
	Hills of St Andrew	217	41%	34%	6%	4%	4%	89%
	Historic Lakeshore Communities	712	37%	18%	14%	10%	8%	86%
	Holland Landing	486	29%	24%	20%	12%	3%	88%
	Huron Heights-Leslie Valley	568	30%	23%	15%	14%	6%	87%

Exhibit 10b

Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Islington Woods	444	39%	27%	8%	5%	4%	83%
	Jefferson	1,282	26%	21%	16%	13%	5%	81%
	Keswick North	914	32%	18%	12%	9%	8%	79%
	Keswick South	1,463	37%	15%	15%	11%	8%	87%
	King City	308	28%	28%	10%	8%	5%	79%
	Kleinburg	275	45%	23%	7%	5%	5%	84%
	Lakeview Estates	497	25%	15%	14%	9%	9%	72%
	Langstaff	2,423	26%	19%	15%	13%	5%	77%
	Langstaff South	2	50%	50%				100%
	Legacy	184	41%	20%	15%	7%	7%	89%
	Maple	2,486	27%	21%	18%	9%	7%	81%
	Markham Village	733	39%	19%	15%	12%	5%	90%
	Markville	611	33%	24%	14%	7%	4%	82%
	Middlefield	1,208	35%	27%	20%	2%	2%	87%
	Mill Pond	806	32%	22%	13%	10%	5%	83%
	Milliken Mills East	1,407	33%	23%	19%	3%	3%	82%
	Milliken Mills West	480	30%	23%	23%	4%	3%	82%
	Mt Albert	409	33%	23%	11%	11%	5%	83%
	Newmarket Industrial Park	8	50%	13%	13%	13%	13%	100%
	Nobleton	199	48%	20%	5%	5%	5%	83%
	North Richvale	1,399	24%	22%	17%	13%	7%	83%
	Oak Ridges	1,592	23%	21%	21%	14%	5%	83%
	Oak Ridges Lake Wilcox	1,310	24%	18%	18%	15%	5%	80%
	Observatory	709	25%	21%	18%	14%	4%	82%
	Old Markham Village	236	36%	19%	16%	14%	5%	90%
	Patterson	3,595	24%	20%	10%	10%	10%	73%
	Pefferlaw	330	29%	19%	15%	11%	11%	86%
	Pottageville	120	35%	28%	10%	4%	4%	81%
	Queensville	46	33%	22%	17%	13%	7%	91%
	Raymerville	540	34%	18%	15%	10%	7%	84%
	Rouge Fairways	138	41%	24%	17%	5%	4%	91%
	Rouge River Estates	156	35%	29%	19%	4%	4%	92%
	Rouge Woods	1,621	25%	23%	16%	10%	4%	77%
	Royal Orchard	730	27%	21%	15%	11%	5%	79%
	Rural East Gwillimbury	311	32%	24%	12%	11%	4%	81%
	Rural King	498	29%	23%	10%	4%	4%	71%
	Rural Markham	78	18%	17%	13%	10%	10%	68%
	Rural Richmond Hill	107	25%	21%	14%	11%	7%	79%
	Rural Vaughan	460	24%	21%	16%	8%	7%	77%
	Rural Whitchurch-Stouffville	764	31%	22%	13%	10%	6%	81%
	Schomberg	136	23%	22%	16%	12%	7%	80%
	Sharon	197	40%	20%	17%	10%	3%	89%
	Sherwood-Amberglen	202	36%	22%	14%	12%	5%	90%
	Sonoma Heights	1,003	32%	20%	14%	10%	6%	82%
	South Richvale	472	26%	19%	14%	11%	5%	75%
	Steeles West Industrial	3	67%	33%				100%
	Stonehaven-Wyndham	893	30%	27%	12%	11%	5%	84%
	Stouffville	1,878	31%	13%	12%	11%	11%	79%
	Summerhill Estates	1,242	28%	22%	16%	14%	6%	86%
	Sutton & Jacksons Point	610	32%	21%	16%	12%	8%	89%
	Thornhill	468	23%	22%	15%	11%	5%	76%
	Thornlea	270	27%	17%	16%	12%	7%	79%
	Unionville	2,554	26%	21%	16%	8%	4%	74%
	Uplands	382	23%	23%	13%	8%	6%	73%
	Vaughan Grove	86	29%	20%	8%	6%	6%	69%
	Vellore Village	3,338	27%	21%	16%	8%	8%	82%
	Victoria Manor-Jennings Gate	251	30%	18%	15%	9%	4%	77%
	Victoria Square	84	33%	15%	13%	6%	5%	73%
	Village Green-South Unionville	605	26%	19%	17%	15%	4%	81%

Exhibit 10b
Share of Transactions by Community - Top Five Selling Corporate Brokerages

Area	Community	# of Sales Jan 07-Feb 12	Corporate Brokerage Rank in the Community 1	2	3	4	5	Total
	Vinegar Hill	122	25%	22%	20%	12%	7%	86%
	Virginia	215	29%	23%	17%	10%	7%	87%
	West Woodbridge	949	39%	19%	11%	8%	6%	84%
	West Woodbridge Industrial Area	3	67%	33%				100%
	Westbrook	1,195	25%	22%	15%	14%	6%	82%
	Wismer	1,198	36%	18%	17%	5%	4%	79%
	Woodland Hill	909	25%	19%	16%	12%	10%	83%

Source: MLS data; sold transactions.

Notes

Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.

Analysis based on communities, as identified in the MLS dataset.

The top five brokerages are identified on a community-specific basis and can differ across communities.

Exhibit 11
Share of Sell-Side Listings by Area - Top 15 Corporate Brokerages in GTA

Rank	Brokerage	Durham	Halton	Peel	Toronto	York	GTA
1	**Brokerage E**	41.6%	31.0%	35.8%	28.4%	28.1%	31.7%
2	**Brokerage D**	12.1%	31.4%	16.4%	16.6%	15.8%	17.3%
3	**Brokerage B**	13.4%	9.5%	8.9%	11.3%	13.8%	11.3%
4	**Brokerage C**	3.1%	1.5%	11.4%	10.4%	14.0%	9.6%
5	**Brokerage A**	10.6%	5.2%	9.1%	7.0%	7.2%	7.7%
6	**Brokerage G**	1.0%	1.2%	2.3%	2.1%	2.0%	1.9%
7	**Brokerage I**	0.8%	4.2%	1.9%	1.2%	1.6%	1.7%
8	**Brokerage J**	5.2%	0.5%	0.5%	1.5%	1.5%	1.6%
9	**Brokerage K**	0.2%	0.1%	0.1%	1.5%	0.6%	0.8%
10	**Brokerage L**	0.0%	0.0%	0.1%	1.7%	0.1%	0.7%
11	**Brokerage H**	0.0%	0.0%	0.0%	1.7%	0.1%	0.7%
12	**Brokerage P**	0.0%	0.1%	0.8%	0.7%	1.1%	0.7%
13	**Brokerage Q**	4.2%	0.1%	0.2%	0.1%	0.1%	0.6%
14	**Brokerage M**	0.0%	0.0%	0.0%	1.1%	0.4%	0.5%
15	**Brokerage R**	0.0%	0.0%	0.1%	0.8%	0.9%	0.5%
	Others	7.6%	15.1%	12.4%	14.0%	12.7%	12.8%
	Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

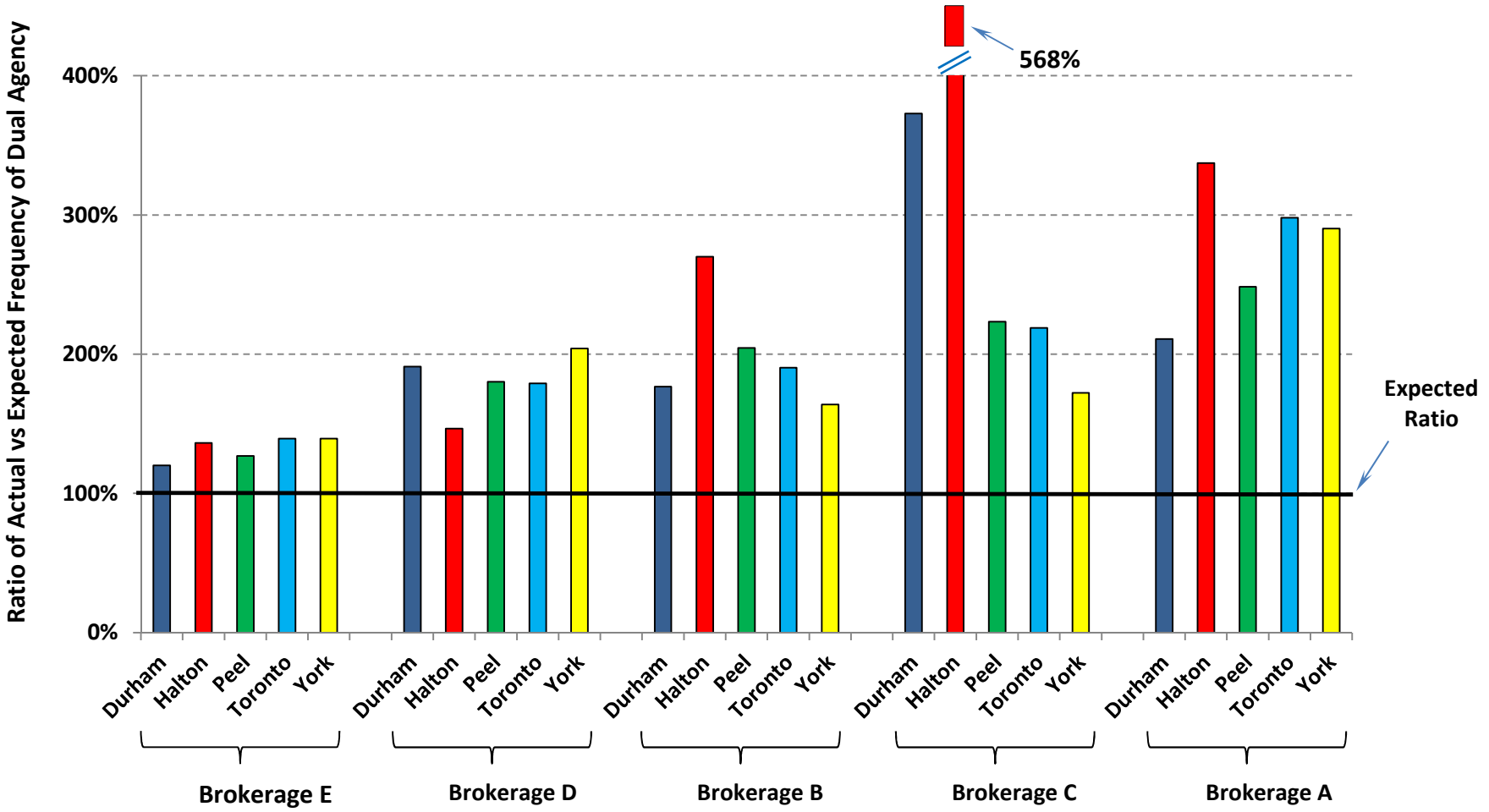
Source: MLS data; sold transactions.

Notes

Based on homes sold in the Greater Toronto Area between January 2007 and February 2012.

The top 15 brokerages are those that have highest listing volumes in the Greater Toronto Area between January 2007 and February 2012.

Exhibit 12a
Actual vs. Expected Frequency of Dual Agency Transactions



Source: MLS data; sold transactions.
Notes: Dual agency defined as a situation in which the same corporate brokerage is on the sell-side and the buy-side. Based on homes sold between Jan 2010 and Feb 2012.
* Ratio is calculated as a brokerage's share of buy-side listings across listings in which the brokerage was on the sell-side, divided by the brokerage's buy-side share across all listings; 100% corresponds to actual frequency = expected frequency, while figures in excess of 100% indicate that actual frequency is greater than expected frequency.

[redacted]

Exhibit 12b
Actual vs. Expected Frequency of Dual Agency Transactions

Corporate Brokerage	Durham	Halton	Peel	Toronto	York	GTA
Brokerage E	120%	136%	127%	139%	139%	135%
Brokerage D	191%	147%	180%	179%	204%	182%
Brokerage B	177%	270%	204%	190%	164%	191%
Brokerage C	373%	568%	223%	219%	172%	240%
Brokerage A	211%	337%	248%	298%	290%	277%

Source: MLS Data; sold transactions.

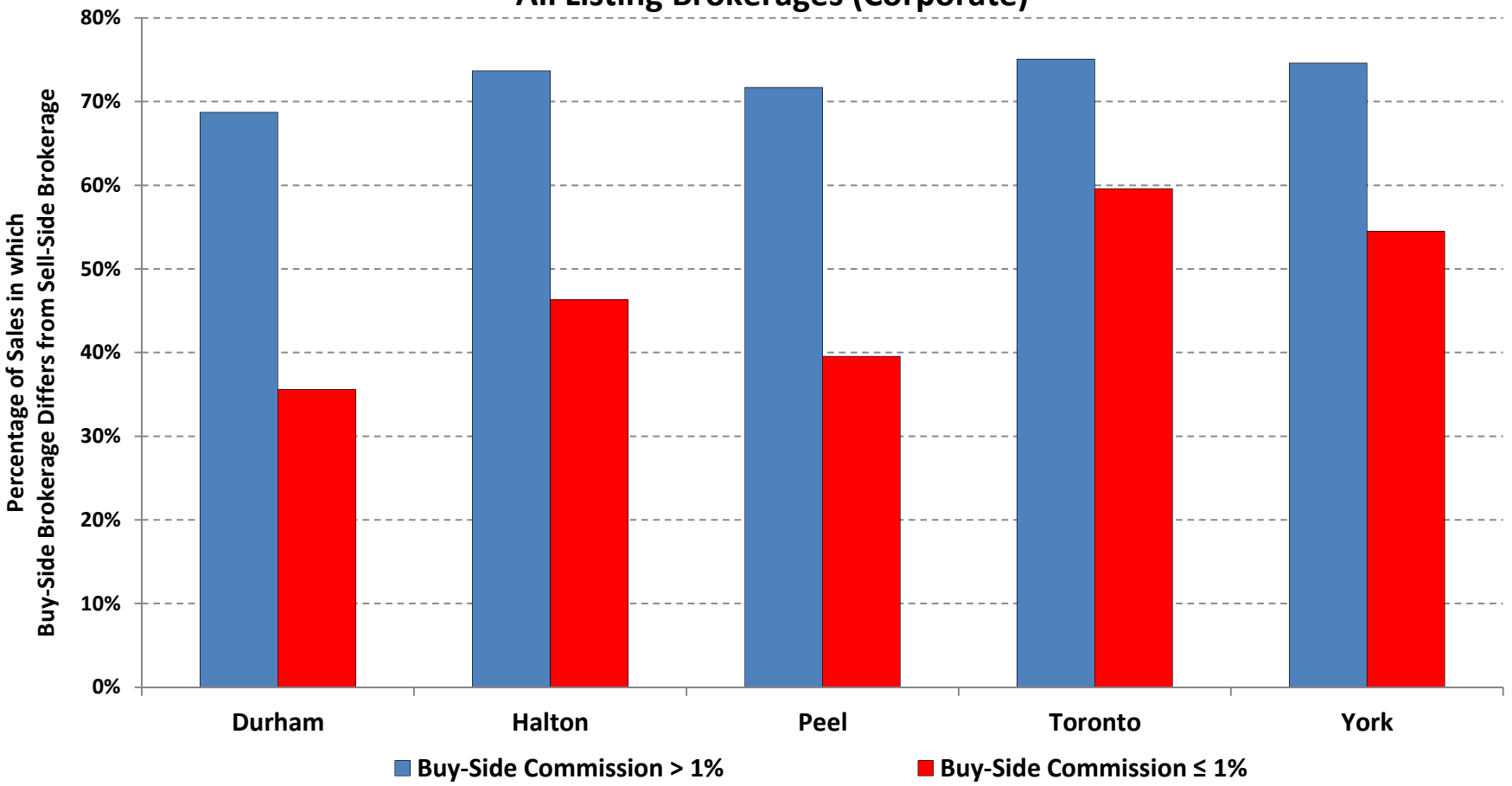
Notes

Dual agency defined as a situation in which the same corporate brokerage is on both the sell-side and the buy-side. Based on homes sold between Jan 2010 and Feb 2012.

Ratio is calculated as a brokerage's share of buy-side listings across listings in which the brokerage was on the sell-side, divided by the brokerage's buy-side share across all listings; 100% corresponds to actual frequency = expected frequency, while figures in excess of 100% indicate that actual frequency is greater than expected frequency.

[redacted]

Exhibit 13a
Buy-Side Commission vs. Frequency of Differing Buy-Side/Sell-Side Brokerages
All Listing Brokerages (Corporate)



Source: MLS data; sold transactions.

Notes: Based on homes sold between Jan 2007 and Feb 2012.

Records in the top and bottom 1% (by year) of the price distribution were excluded. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis. About 200 records for which the listing broker is reported as "NON-TREB BOARD OFFICE" are excluded.

Exhibit 13b
Dual Agency and Buy-Side Commission

	All Listing Brokerages (Corporate)			
	Transactions for Which Buy-Side Commission > 1%		Transactions for Which Buy-Side Commission ≤ 1%	
Area	Share Non-Dual Transactions	# Transactions	Share Non-Dual Transactions	# Transactions
Durham	68.7%	49,007	35.6%	104
Halton	73.7%	42,354	46.3%	149
Peel	71.7%	98,291	39.5%	172
Toronto	75.1%	177,712	59.6%	245
York	74.6%	79,573	54.5%	156
GTA	73.4%	446,937	49.0%	826

Source: MLS Data; sold transactions.

Notes

Based on homes sold between Jan 2007 and Feb 2012.

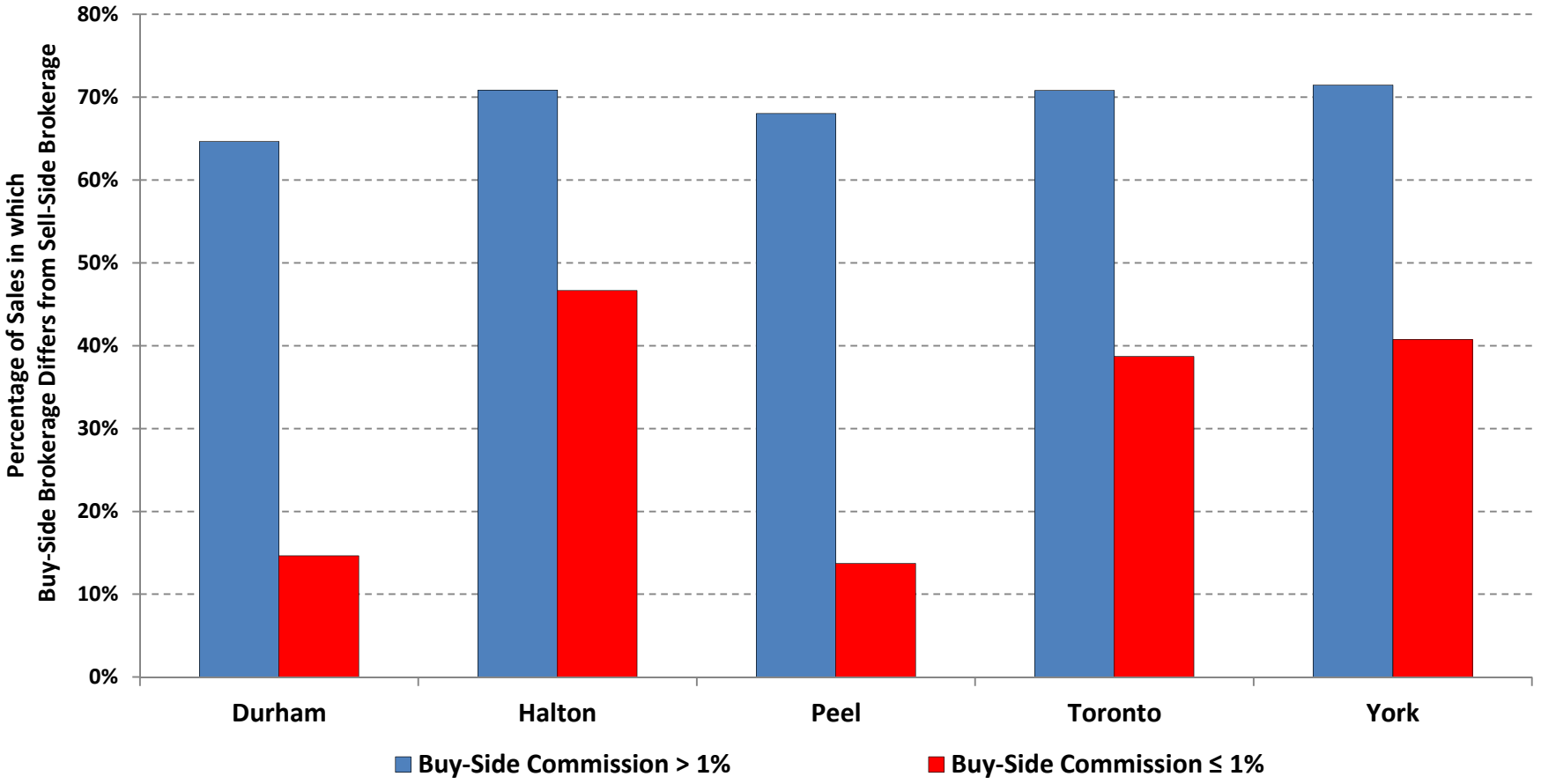
Dual agency defined as a situation in which the same brokerage is on both the sell-side and the buy-side.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

About 200 records for which the listing broker is reported as "NON-TREB BOARD OFFICE" are excluded.

Exhibit 14a
Buy-Side Commission vs Frequency of Differing Buy-Side/Sell-Side Brokerages
Top Five Listing Brokerages (Corporate)*



Source: MLS data; sold transactions.
Notes: * The top 5 brokerages are Re/Max, Royal LePage, HomeLife, Realogy, and Sutton Group. Realogy comprises Century 21, Coldwell and Sotheby's. Based on homes sold between Jan 2007 and Feb 2012.
Records in the top and bottom 1% (by year) of the price distribution were excluded. A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

Exhibit 14b
Dual Agency and Buy-Side Commission

	Top 5 Listing Brokerages (Corporate)*			
	Transactions for Which Buy-Side Commission > 1%		Transactions for Which Buy-Side Commission ≤ 1%	
Area	Share Non-Dual Transactions	# Transactions	Share Non-Dual Transactions	# Transactions
Durham	64.7%	39,696	14.6%	41
Halton	70.8%	33,334	46.7%	15
Peel	68.0%	80,441	13.7%	51
Toronto	70.8%	131,713	38.7%	93
York	71.5%	62,950	40.7%	54
GTA	69.6%	348,134	30.7%	254

Source: MLS Data; sold transactions.

Notes

* Re/Max, Royal LePage, HomeLife, Realogy, and Sutton Group. Realogy comprises Century 21, Coldwell, and Sotheby's.

Based on homes sold between Jan 2007 and Feb 2012.

Dual agency defined as a situation in which the same brokerage is on both the sell-side and the buy-side.

Records in the top and bottom 1% (by year) of the price distribution were excluded.

A few transactions (representing 0.36% of all transactions) for which commission is missing or dependent on the date of the transaction (e.g., 3% before March 1, 2.5% after) were excluded from the analysis.

About 200 records for which the listing broker is reported as "NON-TREB BOARD OFFICE" are excluded.

Appendix 1

CRA Charles River Associates

GREGORY S. VISTNES

Vice President

Ph.D. Economics,
Stanford University

M.A. Economics,
Stanford University

B.A. Economics,
University of California at
Berkeley (with High Honors)

Dr. Vistnes is an antitrust and industrial organization economist who works in a broad array of industries, including financial services, insurance, defense and aerospace, medical equipment, chemicals, software, energy, pharmaceuticals, steel, and various retail and industrial products. Dr. Vistnes is also an expert in the healthcare industry where he has frequently testified, published, and spoken at professional conferences.

In the course of his work, Dr. Vistnes regularly presents his analyses to the U.S. Department of Justice (DOJ) and the U.S. Federal Trade Commission (FTC). He also provides economic analyses for clients involved in private antitrust litigation, for clients involved in matters before state attorney generals, and for firms interested in anticipating the competitive implications of alternative strategies. Dr. Vistnes has also been retained to provide expert testimony in a variety of antitrust matters, both on behalf of private sector firms and on behalf of various state and federal antitrust agencies.

Prior to joining CRA, Dr. Vistnes was the Deputy Director for Antitrust in the Federal Trade Commission's Bureau of Economics. In that position, he supervised the FTC's staff of approximately 40 Ph.D.-level antitrust economists and directed the economic analysis of all antitrust matters before the FTC. Before that, he served as an Assistant Chief in the Antitrust Division of the U.S. Department of Justice. At both the FTC and DOJ, Dr. Vistnes headed analytical teams responsible for investigating pending mergers and acquisitions or alleged anticompetitive behavior. As part of his duties, he regularly advised key agency decision makers, including FTC commissioners and the Assistant Attorney General for Antitrust.

REPRESENTATIVE PROJECTS AND INDUSTRY EXPERTISE

- *Real Estate*. Dr. Vistnes served as the testifying expert for the DOJ in their multi-year litigation *U.S. v. National Association of Realtors* (NAR) regarding NAR's rules on how real estate brokers could use the Internet to compete. Dr. Vistnes has also testified before several states regarding competition the title insurance industry, and worked on several mergers (e.g., *Fidelity/LandAmerica*) involving title insurance providers.

- *Chemicals and Chemical Processes.* Dr. Vistnes has provided antitrust analyses in a variety of different chemicals industries and at different stages of the chemical manufacturing process. His work in this area has included price fixing cases relating to rubber chemicals and hydrogen peroxide, mergers involving polyvinyls and other plastic products, and conduct-related cases associated with industrial manufacturing processes.

- *Energy*. Dr. Vistnes has provided economic analyses of several antitrust matters in different sectors of the energy industry, including the oil, electricity, gas pipelines and gas storage sectors. In addition to overseeing the FTC's economic analyses of mergers such as *BP/Arco* and *Mobil/Exxon*, Dr. Vistnes has also presented his analyses to the Department of Justice regarding price fixing claims in this industry.

- *Natural Resources*. Dr. Vistnes has worked in a wide variety of industries relating to natural resources, including aggregates mergers, cement mergers, and mergers involving copper and other semi-precious minerals.

- *Aftermarkets*. Dr. Vistnes testified before a jury in the *Static Control Components v. Lexmark International* litigation relating to replacement toner cartridges for laser printers. The jury agreed with Dr. Vistnes' opinion that the evidence showed that the aftermarket of replacement toner cartridges was the appropriate relevant market.

- *Insurance and Financial Services.* Dr. Vistnes has testified and provided analyses to both state and federal competition authorities regarding mergers of both insurance carriers (e.g., *MetLife/Travelers*) and insurance brokers (e.g., *Aon/Benfield*). Dr. Vistnes has also analyzed price fixing claims regarding initial public offerings (IPOs) and private equity firms.

- *Healthcare and Medical Products.* Dr. Vistnes has provided court testimony and economic analyses relating to hospital mergers, hospital certificate of need applications, health plan mergers, and physician conduct. He has also provided analyses and testimony related to mergers and conduct issues relating to MRI providers, medical products and equipment, and medical technology.

- *Computer Software and Technology.* Dr. Vistnes has provided economic analyses in several software mergers that helped the merging parties avoid a second request by the government. Examples include matters involving software that provides security for internet websites; billing software used by large health plans; and the provision of electronic business-to-business services between trading partners.

- *Price Fixing Cases.* Dr. Vistnes has provided analyses and reports regarding price fixing cases in a variety of different industries. Dr. Vistnes' work in these matters helped to determine the relevant scope of products affected by the alleged conspiracy, the time periods over which price effects may have arisen, and the magnitude of any damages associated with the conspiracy. Dr. Vistnes' work in this area has been used both in presentations to the Department of Justice and in private litigation.

PROFESSIONAL EXPERIENCE

2000–Present *Vice President*, Charles River Associates, Washington, D.C.

Dr. Vistnes' work focuses on analyzing antitrust and competition issues such as:

- Horizontal and vertical mergers;
- Contractual provisions such as exclusivity provisions, most favored customer clauses, bundling provisions, and price discount schedules;
- Intellectual property and antitrust;
- Price fixing and conspiracy allegations;
- Class action litigation.

1997–2000 *Deputy Director for Antitrust*, Bureau of Economics, U.S. Federal Trade Commission, Washington, D.C.

- Directed the economic analyses of all antitrust matters before the Commission.
- Briefed Commissioners and the Director of the Bureau of Economics regarding all antitrust matters before the Commission, including mergers, vertical restraints, and joint ventures.
- Advised the Commission on whether to challenge mergers or other anticompetitive activities.
- Developed strategies for the investigation and litigation of antitrust matters before the Commission.
- Directed the FTC's antitrust staff of 55 Ph.D. economists, managers, and support staff.

1996–1997 *Assistant Chief*, Economic Regulatory Section, Antitrust Division, U.S. Department of Justice, Washington, DC.

- Directed economic analyses at the Antitrust Division in the health care and telecommunications industries;
- Briefed the Assistant Attorney General and Deputies on the economic aspects of health care and telecommunications matters;
- Played a key role in writing the 1996 Department of Justice/Federal Trade Commission's Statements of Antitrust Enforcement Policy in the Health Care Area;

- Led the Antitrust Division's economic analyses of hospital and HMO mergers and/or joint ventures in the health care industry;
- Directed the economic analyses of Bell Operating Company mergers;
- Headed DOJ's economic assessment of the conditions under which Bell Operating Companies should be allowed to enter into long-distance markets;
- Directed the economic analyses of the wave of radio station mergers following passage of the 1996 Telecommunications Act.

1995–1996 *Manager*, Health Care Issues Antitrust Division, U.S. Department of Justice, Washington, DC.

- Directed the economic analyses of all health care matters at the Division.

1990–1995 *Staff Economist*, Antitrust Division, U.S. Department of Justice, Washington, DC.

- Analyzed antitrust and competition-related matters in the health care, entertainment, natural resources, and industrial machinery industries;
- Designated as the Antitrust Division's economic testifying expert in numerous hospital mergers;
- Analyzed hospital and HMO mergers, physician joint ventures, healthcare information exchanges, and physician/hospital affiliations and mergers;
- Played a key role in writing the 1993 and 1994 Department of Justice/Federal Trade Commission's *Statements of Antitrust Enforcement Policy in the Health Care Area*;
- Designated as DOJ's Economic Representative to President Clinton's 1993 White House Task Force on Health Care Reform.

1988–1990 *Economic Consultant*, Putnam, Hayes and Bartlett, Washington, DC.

- Analyzed health care matters;
- Wrote strategy reports for clients interested in directing the course of health care reform at the local and federal levels;
- Developed pricing methodologies to promote competition in the electric utility industry.

1987–1988 *Visiting Professor*, Department of Economics, University of Washington, Seattle.

- Taught graduate and undergraduate health care economics, industrial organization & strategic firm behavior, and intermediate price theory.

SELECTED INDUSTRY EXPERTISE

- Healthcare
- Chemicals
- Insurance
- Software
- Financial Markets
- Pharmaceuticals
- Supermarkets
- Aerospace and Defense
- Medical Equipment and Services
- Energy

ORAL TESTIMONY

Wendy Fleischman, et al. v. Albany Medical Center, et al., U.S. District Court, Northern District of New York (Case No. 06-CV-0765/TJM/DRH), July 2009 and January 2010. [Deposition testimony on behalf of plaintiff class]

Pat Cason-Merenda et al. v. Detroit Medical Center, et al., Eastern District of Michigan, Southern Division (Case No. 06-15601), April 2009. [Deposition testimony on behalf of plaintiff class]

Munich Reinsurance Group Application for the Acquisition of Control of Hartford Steam Boiler. Testimony before the Commissioner of Insurance of the State of Connecticut, March 2009. [Oral hearing testimony on behalf of Munich Reinsurance Group]

United States of America v. National Association of Realtors. U.S. District Court (Northern District of Illinois – Eastern Division), July 2007 and December 2007. [Deposition testimony on behalf of the U.S. Department of Justice]

Funeral Consumers Alliance, Inc., et al. v. Service Corporation International, et al.. U.S. District Court, Southern District of Texas (Civil Action 3H-05-3394), July 2007. [Deposition testimony on behalf of Funeral Consumers Alliance, Inc.]

Static Control Components v. Lexmark International. U.S. District Court (Eastern District of Kentucky at Lexington), June 2007. [Trial and deposition testimony on behalf of Static Control Components, Wazana Brothers International and Pendl Companies]

Saint Alphonsus Diversified Care, Inc. v. MRI Associates, LLP; and MRI Associates, LLP v. Saint Alphonsus Diversified Care, Inc. and Saint Alphonsus Regional Medical Center. District Court for the Fourth Judicial District of the State of Idaho, May 2007. [Deposition testimony on behalf of Saint Alphonsus Regional Medical Center]

Louisiana Municipal Police Employees' Retirement System, et al., v. Crawford, et al., and *Express Scripts, Inc. v. Crawford, et al.* Del. Ch., C.A., No. 2635-N and 2663-N, February 2007. [Deposition testimony on behalf of Caremark Rx, Inc.]

MetLife, Inc. Application for the Acquisition of Control of The Travelers Insurance Company. Testimony before the Commissioner of Insurance of the State of Connecticut, June 2005. [Oral hearing testimony on behalf of MetLife]

Group Hospitalization and Medical Services, Inc. (GHMSI)/CareFirst Hearing. Testimony before the Department of Insurance, Securities and Banking, Washington, DC, March 2005. [Oral hearing testimony and written report on behalf of GHMSI]

Holmes Regional Medical Center, Inc. v. *Agency for Health Care Administration and Wuesthoff Memorial Hospital, Inc., State of Florida Division of Administrative Hearings, Tallahassee, FL,* December 2004. [Trial and deposition testimony on behalf of Holmes Regional Medical Center]

Application of The St. Paul Companies for the Acquisition of Control of Travelers Property and Casualty Corp. Testimony before the Commissioner of Insurance of the State of Connecticut, February 2004. [Oral hearing testimony on behalf of The St. Paul Companies and Travelers]

Anheuser-Busch Companies, Inc. Metal Container Corporation, and Anheuser-Busch, Inc. v. *Crown Cork & Seal Technologies Corporation*. U.S. District Court (Western District of Wisconsin), October 2003. [Deposition testimony on behalf of Crown Cork & Seal]

Wal-Mart Stores v. *the Secretary of Justice of the Commonwealth of Puerto Rico*. U.S. District Court (District of Puerto Rico), December 2002. [Trial testimony on behalf of Wal-Mart]

United States v. *North Shore Health System and Long Island Jewish Medical Center*. U.S. District Court (Eastern District of New York), August 1997. [Trial and deposition testimony on behalf of the U.S. Department of Justice]

SELECTED EXPERT REPORTS AND WRITTEN TESTIMONY

Minnesota Life and American Modern Life merger. Expert report on behalf of Minnesota Life, submitted to the Indiana Department of Insurance, December 2011.

Yakima Valley Memorial Hospital v. Washington State Department of Health, U.S. District Court, Eastern District of Washington (Case CV-09-3032-EFS). Expert reports submitted on behalf of Yakima Valley Memorial Hospital, April 2010, December 2011, and January 2012.

Yakima Valley Memorial Hospital Certificate of Need Application. Expert report submitted on behalf of Yakima Valley Memorial Hospital, September 2011.

DAW Industries, Inc. v. Hanger Orthopedic Group and Otto Bock Healthcare, U.S. District Court, Southern District of California (Case 06-CV-1222 JAH (NLS)). Expert report submitted on behalf of Otto Bock Healthcare, May 2009.

Hometown Health Plan, et al., vs. Aultman Health Foundation, et al., Court of Common Pleas, Tuscarawas County, OH (Case No. 2006 CV 06 0350). Expert report submitted on behalf of Hometown Health Plan, March 2008.

Texas Title Insurance Biennial Hearing, Docket Nos. 2668 and 2669. Pre-filed direct testimony on behalf of Fidelity National Financial, Inc., January 2, 2008.

An Economic Analysis of Competition in the Title Insurance Industry. Report on behalf of Fidelity National Financial, Inc., submitted to the US GAO, March 20, 2006.

The St. Paul Companies/Travelers Property and Casualty Corp Merger. Expert report on behalf of St. Paul and Travelers, submitted to the California Department of Insurance, February 2004.

Granite Stone Business International (aka Eurimex) v. Rock of Ages Corporation. International Court of Arbitration, ICC Arbitration No. 11502/KGA/MS. Expert reports submitted on behalf of Granite Stone Business International, October 2002 and March 2003.

General Electric/Honeywell Merger. Expert reports (co-authored with Carl Shapiro and Patrick Rey) on behalf of General Electric, submitted to the U.S. Department of Justice and the European Commission, 2001.

United States and State of Florida v. Morton Plant Health System, Inc., and Trustees of Mease Hospital. U.S. District Court (Middle District of Florida – Tampa Division). Expert report on behalf of the U.S. Department of Justice, May 1994.

SELECTED PRESENTATIONS

"An Economist's View of the New Merger Guidelines: From Betty Crocker to Julia Child," Stafford Webinar, October 14, 2010.

"Healthcare Provider Market Power," ABA/AHLA Antitrust in Healthcare Conference, Arlington, VA, May 2010.

"Interpreting Evidence Regarding Price Effects in Consummated Mergers," ABA Spring Meetings, Washington, DC, April 2010.

"Are There Different Rule of Reason Tests for Vertical and Horizontal Conduct?" ABA Joint Conduct Committee, teleconference presentation, June 2009.

"The Economics of Information Sharing and Competition," ABA Section on Business Law, Vancouver, BC, April 2009.

"United States versus the National Association of Realtors: The Economic Arguments and Implications for Trade Associations," ABA Spring Meetings, Washington, DC, March 2009.

"The Use of Price Effects Evidence in Consummated Merger Analysis," ABA Section of Antitrust Law, teleconference presentation, February 2009.

"Competition in the Title Insurance Industry – An Economic Analysis." National Association of Insurance Commissioners, Washington, DC, June 2006.

"Antitrust Issues in the BioTech Industry." Biotech Industry Organization BIO 2005 International Meetings, Philadelphia, June 2005.

"Cartels and Price Fixing – Ensuring Consistency Between Theory and the Facts." The Use of Economics in Competition Law, Brussels, January 2005.

"Intellectual Property and Antitrust in High-Tech Industries." ABA Section on Business Law, Atlanta, August 2004.

"Antitrust, Intellectual Property and Innovation." Biotech Industry Organization BIO 2004 International Meetings, San Francisco, June 2004.

"Quality, Healthcare and Antitrust." Petris Center/UC Berkeley Conference on Antitrust and Healthcare, University of California at Berkeley, April 2004.

"Unilateral Effects - Be Careful What You Wish For." Second Annual Merger Control Conference, The British Institute of International and Comparative Law, London, December 2003.

"Geographic Market Definition in Hospital Antitrust Analysis – Theory and Empirical Evidence." Federal Trade Commission/Department of Justice Joint Hearings on Health Care and Competition Law and Policy, Washington, DC, March 2003.

"Trade Barriers and Antitrust: Foreign Firms – Down But Not Out." Antitrust Issues in Today's Economy, The Conference Board, New York City, March 2003.

"Bundling and Tying: Antitrust Analyses in Markets with Intellectual Property." Department of Justice/Federal Trade Commission Joint Hearings on Intellectual Property and Antitrust, Washington, DC, May 2002.

"Practical Issues in Intellectual Property Investigations: Balancing Rules versus Discretion." Department of Justice/Federal Trade Commission Joint Hearings on Intellectual Property and Antitrust, Washington, DC, May 2002.

"Bundling and Tying: Recent Theories and Applications." Antitrust Section of the American Bar Association Meeting, Washington, DC, April 2002.

"Antitrust Issues in the Pharmaceutical Industry: The Hatch-Waxman Cases." ABA Healthcare and Intellectual Property Sections Brownbag, Washington, DC, February 2002.

"The GE/Honeywell Deal: Is Europe Raising the Yellow Flag on Efficiencies?" CRA Conference on Current Topics in Merger and Antitrust Enforcement, Washington, DC, October 2001.

"Marching to the Sounds of the Cannon: Antitrust Battlegrounds of the Future." National Association of Attorneys General Conference, San Diego, October 2000.

"The Joint Venture Guidelines: Navigating Outside the Safety Zones." The 8th Annual Golden State Antitrust and Unfair Competition Law Institute, Los Angeles, October 2000.

"Strategic Behavior in the Pharmaceutical Industry: The Hatch-Waxman Act and Blockading Entry." Antitrust Section of the American Bar Association Meeting, Washington, DC, April 2000.

"Working With Economic Experts." Antitrust Common Ground Conference, Chicago, IL, December 1999.

"Merger Enforcement Trends." CRA Conference on Current Topics in Merger and Antitrust Enforcement, Washington, DC, December 1998.

"Hot Topics in Health Care Antitrust." Antitrust Fundamentals for the Health Care Provider, Sponsored by the Wisconsin Field Office of the Federal Trade Commission, the US Department of Justice, and Marquette University Law School, Milwaukee, WI, December 1998.

"Federal Antitrust Enforcement in the Health Care Industry: New Directions." Fourth Annual Health Care Antitrust Forum, Northwestern University, September 1998.

"Hospital Competition in HMO Networks." American Economic Association Meetings, San Francisco (1996) and Chicago (1998).

"Creating Competitive Markets Amidst Barriers to Entry." Weeklong Presentation to the Russian State Committee of Antimonopoly Policy, Volgograd, Russia, January 1997.

"The Economics of Antitrust Law." Maine Bar Association, January 1995.

"The Competitive Impact of Differentiation Across Hospitals." Fourth Annual Health Economics Conference, Chicago, 1993.

"Multi-Firm Systems, Strategic Alliances, and Provider Integration." Pennsylvania State University, the University of California at Santa Barbara, and the Johns Hopkins School of Public Health, 1992 and 1993.

PUBLICATIONS

"The Interplay Between Competition and Clinical Integration: Why the Antitrust Agencies Care About Medical Delivery Styles," *CPI Antitrust Journal*, Competition Policy International, October 2010.

"Presumptions, Assumptions and the Evolution of U.S. Antitrust Policy." With Andrew Dick. *Trade Practices Law Journal*, December 2005.

"Commentary: Is Managed Care Leading to Consolidation in Health Care Markets?" *Health Services Research*, June 2002.

"Employer Contribution Methods and Health Insurance Premiums: Does Managed Competition Work?" With Jessica Vistnes and Phillip Cooper. *The International Journal of Health Care Finance and Economics*, 2001.

"Hospital Competition in HMO Networks: An Empirical Analysis of Hospital Pricing Behavior." With Robert Town. *The Journal of Health Economics*, September 2001.

"Hospitals, Mergers, and Two-Stage Competition." *The Antitrust Law Journal*, January 2000.

"Defining Geographic Markets for Hospital Mergers." *Antitrust*, Spring 1999.

"The Role of Third Party Views in Antitrust Analysis: Trust But Verify." *Government Antitrust Litigation Advisory*, American Bar Association, July 1998.

"Hospital Mergers and Antitrust Enforcement." *The Journal of Health Politics, Policy and Law*, Spring 1995.

"An Empirical Investigation of Procurement Contract Structures." *The Rand Journal of Economics*, Summer 1994.

PROFESSIONAL ACTIVITIES

Referee for:

- *The American Economic Review*
- *The Antitrust Law Journal*
- *Health Services Research*
- *Inquiry*
- *The Journal of Industrial Economics*
- *The Rand Journal of Economics*
- *The Review of Industrial Organization*

Grant Reviewer for:

- Robert Wood Johnson Foundation/Academy Health
- The Alpha Center
- Agency for Health Care Policy and Research

HONORS AND AWARDS

- Named one of *Global Competition Review's* 2006 "Top Young Economists" (identifying the top 22 antitrust economists in the U.S. and Europe under the age of 45)
- Assistant Attorney General's Merit Award (1994), Antitrust Division, U.S. Department of Justice
- Distinguished Teaching Fellowship (1986), Department of Economics, Stanford University
- Academic Fellowship (1983–1984), Department of Economics, Stanford University
- Phi Beta Kappa (1983)

Appendix 2

Appendix 2: Sources and Materials Relied Upon

A. Productions

CREA00005825

CREA00029955

CREA00032008

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CREA00038366

CREA00038626

EX000110

GPJR00020279

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TREB00012209

TREB00012278

TREB00013455

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TREB00034698

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TREB00037052

TREB00042202

TREB00047221

TREB00048338

TREB00049441

TREB00049464

TREB00049524

TREB00049525

TREB00053402

TREB00057729

TREB00059153

B. Submissions

Affidavit of Lawrence Mark Dale, September 1, 2011.

"Answers to Undertakings Given on the Examination for Discovery of Donald Richardson", May 15, 2012.

"Answers to Undertakings Given on the Examination for Discovery of Donald Richardson," April 20, 2012.

Urmi Desai (Realosophy) Witness Statement, June 20, 2012.

Examination for Discovery of Donald Richardson, March 19, 2012.

Examination for Discovery of Donald Richardson, March 21, 2012.

Examination for Discovery of Donald Richardson, April 3, 2012.

Examination for Discovery of Donald Richardson, April 20, 2012.

Examination for Discovery of Gary Simonsen, April 5, 2012.

Examination for Discovery of John Di Michele, February 5, 2009.

Letter from Richard Silver to John Pasalis, April 16, 2012.

Mark Enchin (Realty Executives Plus) Witness Statement, June 19, 2012.

William McMullin (ViewPoint) Witness Statement, June 2012.

Scott Nagel (Redfin) Witness Statement, June 20, 2012.

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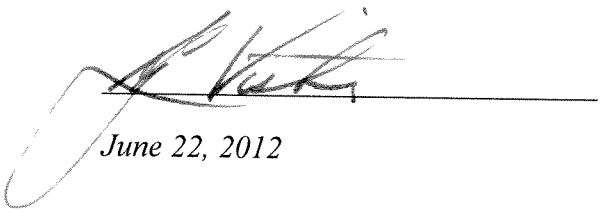
Appendix 3

APPENDIX 3: ACKNOWLEDGEMENT OF EXPERT WITNESS

I, Gregory S. Vistnes, acknowledge that I will comply with the Competition Tribunal's code of conduct for expert witnesses which is described below:

1. An expert witness who provides a report for use as evidence has a duty to assist the Tribunal impartially on matters relevant to his or her area of expertise.

2. This duty overrides any duty to a party to the proceeding, including the person retaining the expert witness. An expert is to be independent and objective. An expert is not an advocate for a party.



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