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

WITNESS STATEMENT OF SHAYAN HAMIDI

TheRedPin.com Realty Inc.

- 1. I am a co-founder and the CEO of TheRedPin.com Realty Inc. ("TheRedPin"). TheRedPin is a real estate brokerage with a website at www.theredpin.com and currently have offices located at 180 Bloor Street West, #602, Toronto.
- 2. Previously, I founded and was CEO of GoTakeOut.com, an online location-based restaurant guide for Toronto. I have also worked as Managing Director for CrysTile Corporation

and in the President's office at St Michael's College, University of Toronto. I also taught calculus and economics at the high school level. I have an honours degree in Computer Science, Mathematics and Economics from the University of Toronto.

TheRedPin

- 3. TheRedPin is one of Canada's first online brokerages. We describe our business as a hybrid of a high tech company with a savvy, full service real estate brokerage. Our objective is to make the experience better for buyers and sellers, through innovative technology and amazing customer service. TheRedPin was honoured in 2011 by MaRS, one of world's biggest centers of innovation located in Toronto, as one of Canada's most innovative companies.
- 4. TheRedPin's brokerage business has a "consumer centric" approach. I believe there is a significant difference in our business model compared to traditional real estate.
- 5. At the core of our business model is our website, www.TheRedPin.com. To my knowledge TheRedPin was the first brokerage to launch a website using TREB's virtual office website (VOW) data feed, in December, 2011.
- 6. Our website provides access to the following:
 - (a) Searches: Searchable listings of residential properties that are actively for sale in the Greater Toronto Area (GTA) and searchable new and pre-construction condominiums in the GTA. I believe TheRedPin is the largest database of for sale residential listings available to buyers and sellers in the GTA;
 - (b) **Related Information**: The RedPin offers a wealth of "third party information" that is useful for potential buyers and sellers who are considering the purchase or sale of a new home, from school rankings, to more than ten years of real estate statistics, to information and links to over hundred thousand local businesses around the GTA;
 - (c) **Superior technology:** As we state on the website,

TheRedPin is not just a real estate search site, rather it's a home buying application. It's an extensive platform, using the latest available technologies and the most powerful API's¹ to pull in the best relevant upto-date content and make it easy and fast to search and browse. TheRedPin is focused on streamlining the whole buying and selling process, to make it more efficient and effective.

- (d) For our condominium customers, who may be investors or customers who intend to live in the condo, we provide access to new condo developments before the general public or most other agents.
- 7. If a customer buys or sells with TheRedPin, we rebate 25% of TheRedPin's commission as part of TheRedPin Rebate Program.
- 8. To make sure the interest of our buyers and sellers are aligned with our sales representatives, we hire our agents, pay them a base salary with bonus for each deal that they do, based on customer satisfaction. In addition, we give our agents dental and medical benefits and pay for their dues, gas, mobile and other expenses. We also offer them all their clients, so all they have to do is to focus 100% of their time and resources on servicing clients, not selling to them!

Origins of TheRedPin

- 9. My experience selling a home and buying a condo in 2008 motivated me to consider using my technology background to make real estate business more transparent and better.
- 10. In 2008, I and three others started a business we called Realty Teller. We all still own and work in the business, which is now TheRedPin. Three of us have a tech background, and the fourth, Tarik Gidamy, has been a real estate broker since about 1997. He is TheRedPin's broker of record. He has been working with us since 2008 but was not full time until 2011, as he was a real estate broker and developer of custom homes.

¹ An API is an application programming interface, which is essentially a way for different software programs to talk to each other.

- 11. In 2008, my co-founders and I looked into the real estate industry in Toronto. Our goal became to increase transparency in the real estate industry using the MLS data and third party information such as schools, neighbourhoods and so on. We believed there is more to a home than the basic factors such as square feet and number of bedrooms. We believe your home will make a huge impact on your life, such as your lifestyle, the neighbourhood you live in, the schools yours kids go to, and how easily you can commute to work. All are important facets of buying or selling a home.
- 12. In developing Realty Teller, we created a platform that would meet those customer desires and needs, all in one user-friendly internet website.
- 13. Realty Teller's platform was designed to allow consumers to search thousands of preconstruction, MLS-listed and exclusively-listed homes for sale and for rent across the GTA. Consumers could search using numerous characteristics of the home they were looking for, from common criteria (such as listing price, number of bedrooms and property type (e.g. condo or detached) to more particular criteria such as lot features (corner, waterfront, water view), to keywords such as swimming pool or fireplace, to parking features, to the number of days the property has been listed for sale on Realty Teller.
- 14. Once the customer decided on the characteristics for a search, the search could be restricted by neighbourhood, by MLS district (boundaries created by TREB), by street intersection (e.g. Yonge and Eglinton), by postal code or by MLS number (assigned by TREB).
- 15. The search would display properties currently for sale to the consumer in multiple ways that the consumer would select in a list of available properties, on a map with available properties shown by icons, on a property by property basis (a "gallery" view), or by MLS listing ("MLS view" as would appear on the website www.mls.ca, which is now realtor.ca).
- 16. The Realty Teller website was also designed to provide a single online source of other information important to people looking for a home, including:
 - (a) A snapshot of neighbourhood statistics, including real estate information (such as average home price, average property tax) and demographic information (average

- household income, main age group and ethnic groups living in the neighbourhood);
- (b) A "one month snapshot" of average home price and number of sales for a geographic area, by percent change from the previous month and a graph of the previous year or more;
- (c) Comparable houses for sale, including a photograph, address, list price, and number of bedrooms and baths;
- (d) Similar homes that have recently sold, with the same information as houses of sale but also including the sale price and date of sale;
- (e) Graphs and statistics for investment purposes, such as how well the property is priced, how quickly is it likely to sell based on similar homes in the area;
- (f) Local points of interest near the home for sale, such as schools, grocery stores, walk-in medical clinics, banks, restaurants and cinemas;
- (g) Mortgage calculator and mortgage rate information, a land transfer tax calculator; and
- (h) Many other features.
- 17. Screenshots from the Realty Teller website platform we created in 2008 are attached as Exhibit "A".
- 18. My co-founders and I all wanted to innovate using MLS data and the strength of the technology but could not. When we approached TREB to get a data feed, we were told, I believe in a meeting with TREB's Chief Information Officer Mr. John DiMichele, that such a policy was not in place and we could not have it. We confirmed with TREB that the only way to get the information in data form would be to get signatures from each and every individual brokerage to allow us to display their listings on our website.

- 19. In March 2009, we were set up for a data feed transfer from Bridlepath Progressive Real Estate and the Harvey Kalles brokerage. But we soon realized it would take a lot of work trying to get other brokerages to provide us with listings in a data feed format.
- 20. This allowed us to test out the platform we had built and see how it would work. It took months to get to this point and we knew it would take much longer to get sufficient listings from all the existing brokerages to make our platform work. The problem was that it had incomplete listings which is not appealing or satisfactory to customers, and it was too much work to get all of feeds by agreement.
- 21. During this time, even a major Canadian real estate developer, Tridel, who again liked our idea and was very interested in our platform. But without all the resale home listings data in a feed from the TREB MLS, we could not go further with them.
- 22. We eventually decided to go forward with new condominiums as our business option, because we believed there were sufficient numbers to make the online platform work. As it has turned out, this decision allowed us to stay in business, build traction for the brand and platform, until the MLS data became available over two years later.
- 23. My partners and I also looked at the policy change in the U.S. real estate market closely. I strongly believed that eventually, the MLS data would become available in Canada. Simply, I believed that the information could not be held back from brokerages and consumers in this day and age. It would eventually happen.
- 24. We decided to focus on an online platform and sophisticated website to provide services to the new condominium market and build up a real estate business in that manner. We would not act as a brokerage for condominiums, but instead as the online platform connecting condo builders and developers with potential buyers. At this point, the builders were the source of revenue for the company, because they would pay for ads and other ways to be featured on the website.
- 25. The platform initially launched to private testers in March 2010. There were a couple of thousand testers who could use the platform and give feedback. Access to it was password protected (it was behind a "walled garden").

- 26. In September 2010, the platform launched publicly. We dropped the wall to the login and allowed anyone to participate.
- 27. In January 2011, we began to allow buyers to make direct connections with builders through the website by introducing contact tools. The platform was very good for customers, but we got feedback from buyers that the condo builders were not responsive enough. Since we passionately cared about the buyer's experiences, this feedback pushed us into the service end of the business because we felt they could not leave the buyers "hanging out there". We began to do more and more of the leg work for buyers towards the purchases of condos. Tarik Gidamy was handling the transaction aspects as he is a licensed broker.
- 28. As this service developed in 2011, we learned that TREB would be releasing a VOW Policy. We realized that it was time, and we could now move forwards toward our original Realty Teller vision from 2008. We had an existing online platform and we could obtain and use TREB's MLS data if we became an official brokerage and a member of TREB. These pieces allowed us to create TheRedPin.

TheRedPin's Business

- 29. TheRedPin launched as a brokerage at the end of June 2011, just as TREB announced its new VOW policy and rules.
- 30. TheRedPin is a full service brokerage. We work with both buyers and sellers. TheRedPin currently employs five agents, who are paid a salary and benefits. Their TREB dues and gas are also paid for. Agents make a flat rate on real estate transactions with a bonus if there is high customer satisfaction. Their compensation is not based on the value of the property (commission) so that they can focus on high quality service. We also employ five other people referred to as "angels", who assist customers with matters related to the purchase and sale of a home but do not need the attention of an agent immediately.
- 31. For sellers, we offer a range of service from simple postings on the MLS without any further service, to full listing and buyer service. For buyers, our business model allows buyers to

educate themselves about the market and specific condo or resale properties, as well as many other features of neighbourhoods such as schools, using the extensive information and search functions on TheRedPin.com. Customers can then get help from our non-agent employees for certain tasks and from our agents to assist with things like getting advice, going on tours, making an offer, and negotiating the terms of a transaction.

- 32. TheRedPin offers buyers and sellers 25% of our commission as a "cash back" incentive on homes purchased or sold through our brokerage. In general terms, buyers and sellers qualify for this incentive when purchasing a resale property or a new condo, the latter being sold by the developer and purchased after the public opening date announced by the developer.
- 33. TheRedPin is different from the "traditional" brokerages in Canada. Assisting buyers with the home buying process involves a lot of leg work for traditional brokers. We believe that in the Internet era, many services can be streamlined and changed to provide much more efficient, better and scalable services through technology. Canada is far behind the United States in this respect, as the United States has had online brokerages that use technology to empower their clients and are able to offer value-added services provided through websites for years.
- 34. Many traditional brokerages are not structured towards the consumer, in that the brokerage's real clients are the agents, not buyers and sellers. The model is commission-based where the commission paid is either shared between the agent and the brokerage, or the agent pays a monthly fee referred to as desk fees to the brokerage to use their brand, or a mix of the two. The brokerage makes more money from a higher volume of transactions done by the agents, and having higher number of agents on board. For the most part, these agents have their own independent businesses under the brand offered by the brokerage.
- 35. TheRedPin's model puts the customer first and works backwards from that objective. Empowering the customer to do more himself or herself assists the brokerage in becoming more efficient, as less work is done by the agent.
- 36. Providing MLS and other important information to consumers efficiently and effectively, particularly through our website, is critical to our model. As a hybrid brokerage and technology company, we use technology and the Internet effectively to generate leads, so our Realtors only

focus on service rather than the volume of transactions. In this way, the focus is on customers receiving the agent's expertise, not using the agent to get access to the information in the MLS. The agent's value is in the negotiation, advice, judgment, due diligence, what offers to make and so on. The agent should not be a tour guide or simply be a source of MLS and other information.

TREB's VOW Feed

- 37. In November, 2011, TheRedPin entered into an agreement with TREB to obtain the TREB VOW feed. We began receiving the feed in late November, 2011 and launched it on TheRedPin.com on December 27, 2011.
- 38. TREB's VOW feed does not contain data about
 - (a) the sold price of homes,
 - (b) the sold date of homes,
 - (c) updates on number of days a property for sale (a "listing") has been on the market ("Days on Market"),
 - (d) other status changes, such as when a listing is pending sale, expires or is withdrawn,
 - (e) broker information such as the offer of commission from the seller's brokerage to the buyer's brokerage,
 - (f) price adjustments and a history of them, and
 - (g) consolidated latitude and longitude of listed properties that would help us to accurately locate every home on the map with a "red pin".

- 39. The data feed also does not have other helpful, secondary data such as machine-readable boundaries for new districts (boundaries recently redrawn by TREB) and its old districts.
- 40. This is all information that TheRedPin needs and we would like TREB to include in its VOW data feed. TheRedPin has attempted to create an algorithm to be able to calculate the Days on Market of a listing using the data that is in the feed, but it is not sufficiently accurate to use due to lack of information. This information is available on TREB's MLS system as it can be obtained by agents through TREB's Stratus service, but is not in the data feed.

Use of Sold and Other Data in TheRedPin's Business

- 41. If TREB's MLS VOW data feed contained the data listed above, it would make a huge difference to TheRedPin's business and the level of service our agents could provide, which would be a huge differentiator for us to what is currently available in the market
- 42. I believe TheRedPin as a real estate brokerage and a member of TREB should be able to pull in ALL the data with sold history from the MLS for its internal use and to provide to clients in office and through our website. With it, our Realtors can use our own technology and additional information that we have in our database, in order to provide better insight to our clients, such as providing them with much smarter, and complete comparative market analysis or "CMA" of any listing that would match their criteria.
- 43. For example, with access to sold data we will also be able to use aggregates to show trends to users in different formats, such as "heat" maps (which local areas are "hot"), graphs and charts so they can better understand the market and make better decisions.
- 44. I believe that the TheRedPin would get better traction as a brokerage if we could obtain this data. We could provide better and a greater number of services; the information would attract a greater number of people to our brokerage and it would allow innovation and more information to be used by our customers and our agents. We would also provide more tools for our agents to make them more efficient, more responsive, with better information and insights to

provide to clients. There are also benefits to the brokerage in terms of lower costs. The sold data is key to all of this.

- 45. The efficiencies in our business allow TheRedPin to offer 25% of the commission back to customers because buyers are doing work themselves and our agents can focus on work that adds the most value to customers. Customers can do their own research on properties that they may be interested in buying using the information on our website. Customers love doing their own research. We at TheRedPin believe in transparency and a transfer of control to buyers. It also makes our agents more efficient as customers do some of their own research and get educated on our platform, rather than relying on information from an agent.
- 46. We want our agents to spend time with buyers or sellers who are at the "bottom of the funnel", that is, who are close to a decision to buy or seller a property. When they are at that point, agents provide advice and information to help sellers with pricing the property, or about how much a buyer should offer. They should focus on the value that they bring to a customer as opposed to all the various other services that are traditionally provided by a brokerage but that do not necessarily have to be done by the agent personally and can be done much more accurately and efficiently through technology.
- 47. When assisting with pricing or an offer, an agent may also do a comparative market analysis or CMA that compares a property for sale (or to be sold) with similar properties that have recently sold. But a traditional agent cannot personally prepare a CMA on every property that a buyer may have some interest in (especially when the buyer is not at the bottom of the funnel). It is more efficient for agents to focus on one or two homes that the buyer is actually interested in buying and to let consumers do their own research through a website to weed out properties they are not really interested in. In addition, with a data feed and our technology, our agents could prepare a better CMA more quickly than now. Instead of taking an hour or more to research and gather information, with the help of our technology it would be minutes.
- 48. For advice to customers, such as CMAs, the age of sold data is important. The most recent sale prices are more relevant for determining individual listing prices for sellers. Additional data back in time is also very helpful to be able to look at trends. Knowing this

information may help buyers determine whether a property is a good investment, and whether if it could give a good return on investment, ROI, if they buy it and rent it out.

- 49. Agents need to understand these kinds of trends in the market and this could be done by TheRedPin using the additional MLS data, particularly sold prices, and the algorithms we have developed. For instance, condos and resales could be compared in an area in order to see if a new or pre-construction condominium could be a good investment or not based on previous sold trends. MLS data for homes in a selected neighbourhood could be used to figure out trends in the sale and list prices in that neighbourhood.
- 50. As well, some customer services could be automatic with a better data feed. As an example, if we had price changes in the feed, we could offer an automatic notification to customers of price reductions in neighbourhoods they are interested in. Buyers looking for a "deal" could react very quickly to changes in the market and could do so without any personal involvement of the agent (saving time and improving responsiveness for our brokerage to the customer's needs).
- 51. TheRedPin agents can retrieve data, including sold data and days on market, now as members of TREB using Stratus or Geowarehouse, which are services that TREB provides. But these services are not flexible and the technology is weak even though the information itself is helpful to agents and ultimately to customers. Part of the problem is that agents have to use the format and search terms offered by the software by the board. Then the agents have to make sense of the information on their own which is a lot of work. Some of that work and insight can be achieved using more flexible and advanced technology and some of it can be done by customers themselves. Also, a lot of third party information that we already offer on TheRedPin.com is either not available through Stratus or Geowarehouse, or is not searchable based on their current databases. An example is creating a CMA with sold data on homes with indoor swimming pools or certain school information, neighbourhood and lifestyle information such as close shopping nearby. With a complete data feed from TREB, we could put all of the information from several sources together, seamlessly and in innovative ways for our agents and our customers and not be limited by the information and pre-packaged format of Stratus and Geowarehouse.

PUBLIC

- 13 -

52. Buyers and sellers can get in touch with brokers all over the city to get information about

properties that have recently sold. You do not really have to already be working with a Realtor to

get this data, many agents would offer it to you to win your business or just to give you some

service. If you contact a few agents informally and ask them for sold data, it will not take long to

find one who will send it to you via fax, printouts or email. This seems to be acceptable and

common practice. So if it is acceptable to share this information, then why should it matter how

we do it and why can't we choose to do it through our website? We need to have a level playing

field in the industry so as a new and independent real estate brokerage we can also have a chance

to operate and innovate on our own terms.

53. I also like the idea of being able to have the offer of commission included in the TREB

VOW feed, because we can use that data internally to immediately and accurately calculate the

rebate offered by TheRedPin to buyers. Already, TheRedPin calculates the anticipated rebate on

its website (25% of the offer of commission), but does so on the basis of the assumption that the

offer of commission is 2.5%. The accuracy would be improved if we could receive the actual

offer of commission in TREB's data feed, and it would be more transparent and buyers would be

clear on what is being paid out.

SIGNED THIS 22ND DAY OF JUNE, 2012.

SHAYAN HAMIDI

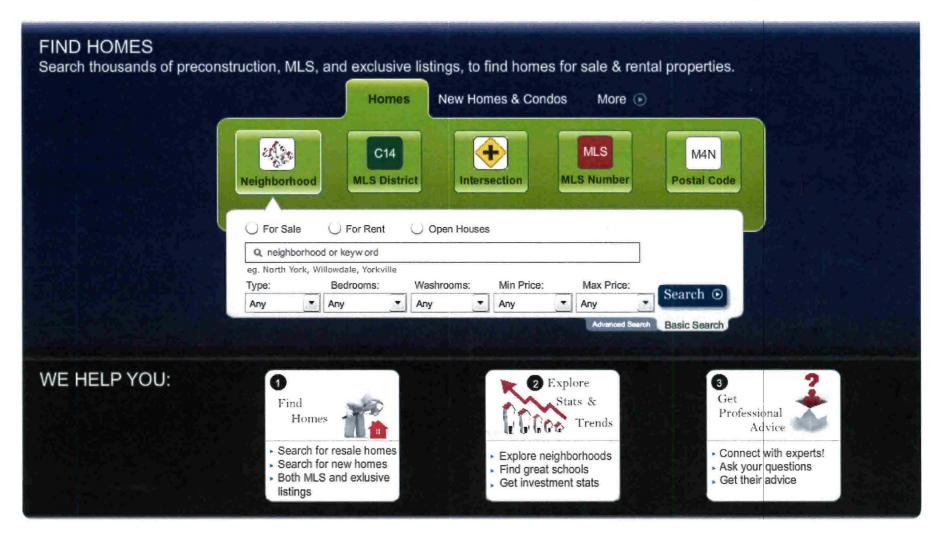
TheRedPin.com Realty Inc.

EXHIBIT "A"



Hi Jessica! My Stuff Help Log Out Language: English

Find Homes Find Stats & Trends Find Advice & Opinion Find New Homes Find Professionals



Featured Pre-Construction Project







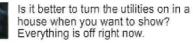








Latest Discussions (Q&A)



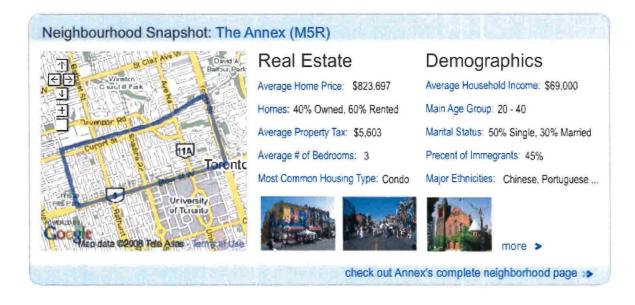
Asked a few minutes ago by: Julia Hunt in Toronto

The heart of the Entertainment District just evinned a heat

THREE HUNDRED

FRENT STREET WIST









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Tridel is Canada's leading developer and builder of condominium residences with more than 70 years of homebuilding experience.

Brokerages



For over 50 years. Harvey Kalles has been dedicated to offering professional real estate service.



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Toronto's Featured Homes: \$1,500,000 - \$2,000,000













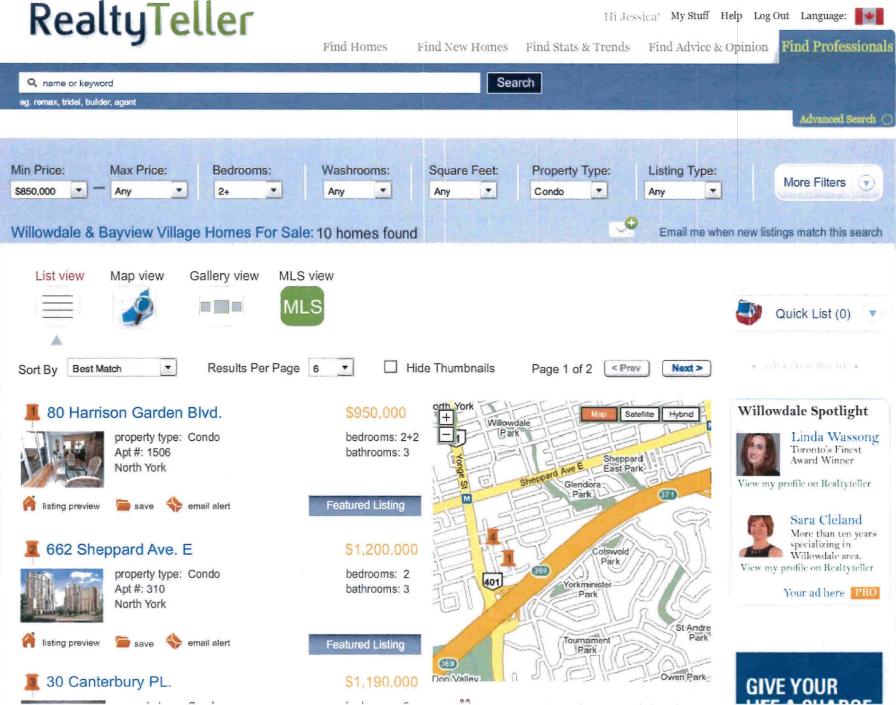






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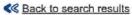


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| Willowdale & Bayview Village Homes Fo | or Sale: 10 homes found | Email me whe | Search n new listings match this search |
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| Sort By Best Match Results Per | Page 6 • Hide Thumbnails | Page 1 of 2 < Prev Next > | eksitischieni « |
| 80 Harrison Garden Blvd. property type: Condo Apt #: 1506 North York | \$950,000 bedrooms: 2+2 bathrooms: 3 | Sheppard Ave E East Park 1 a Glendora | Willowdale Spotlight Linda Wassong Toronto's Finest Award Winner View my profile on Realtyteller |
| isting preview assave email alert | Featured Listing | Park | Sara Cleland |

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1521 - 80 Harrison Garden Blvd., M2N 7E3

MLS#: C1409393

Popular

TTC

Schools

Walk in Clinics Grocery Stores

Categories

Cemetery

Map: 103-20-E

District: C14



\$950,000 For Sale

Total Views: 238 Last Updated: 8/15/2008

Overview

Investment

Building Info

Neighborhood

Schools

Discussions

Open House

Sheppard

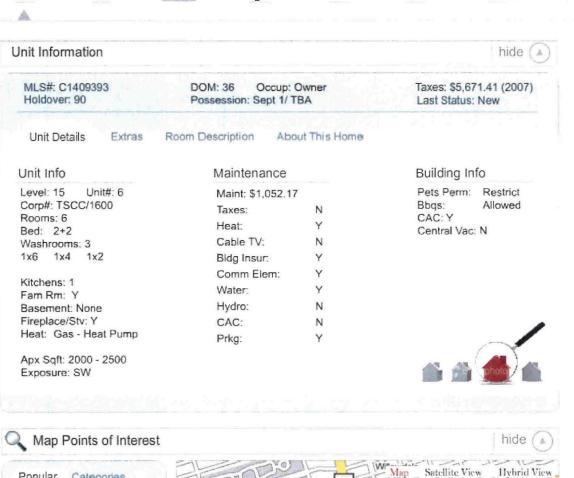
East Park

Glendora: Park 1

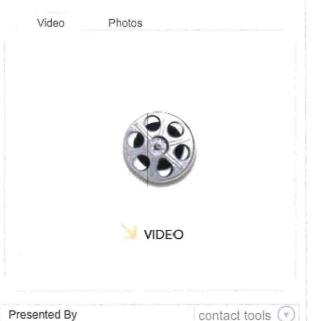
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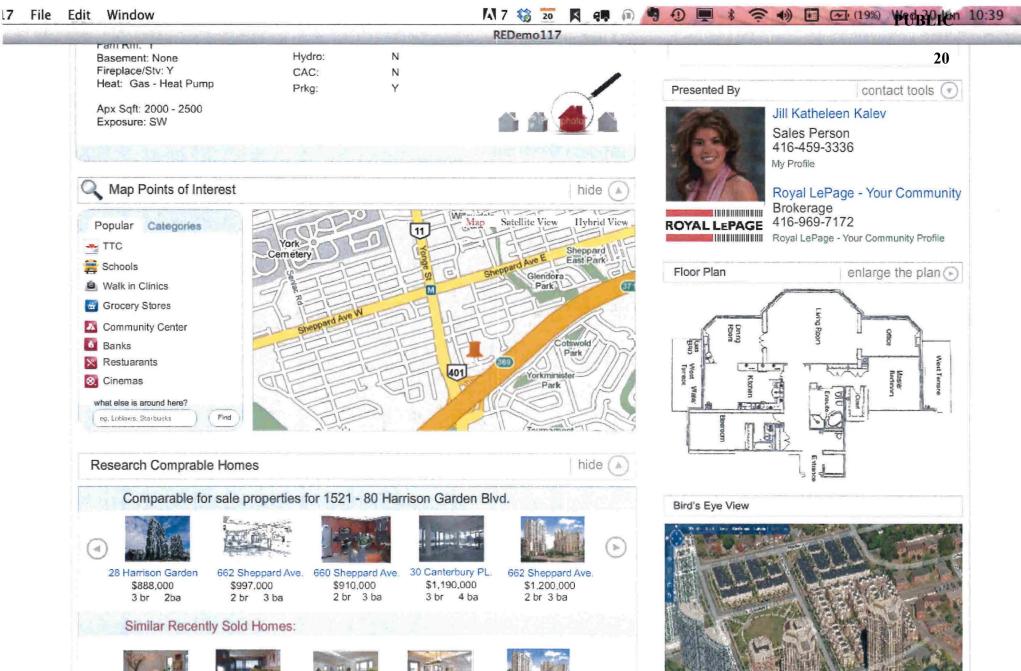
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Royal LePage - Your Community Profile







On: 09/12/08

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Sold: \$967,000

On: 08/07/08

2 br 2 ba





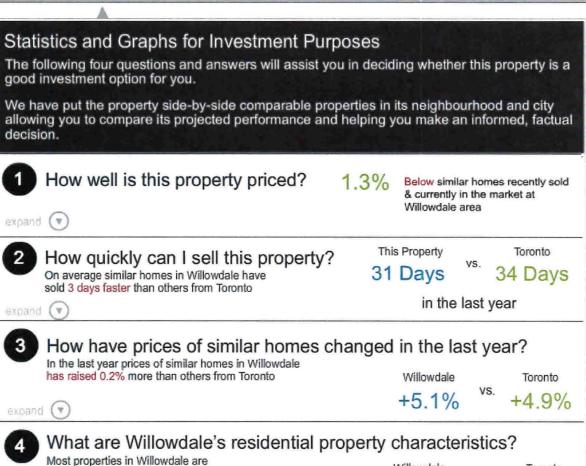
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662 Sheppard Ave Sold: \$958,000 On: 09/22/08 2+2 br 1ba





condos and majority of them are owned.

Willowdale

Toronto

Percentage of Ownership:

67%

68% VS.

VS.

Percentage of Condos:

72%

26.5%

Tools click here to see all research tools >> Mortgage Calculator hide (A) Calculate your monthly payments. \$ 950,000 Mortgage amount Annual interest rate % per year 5.2 e.a 5.2 25 Loan Term: years Monthly Desired amortization schedule Next > Step 1/3 hide (A) Mortgage Rates Sponsored By: Rates for M2N Mortgage Type Today Last Week 25 yr fixed mtg 6.20% 6.12% 15 yr fixed mtg 5.85% * 5.92% 10 yr fixed mtg 5.42% 5.55% 5 yr fixed mtg 5.00% * 5.10% 5 yr variable mtg 4.21% 4.30% Find lenders in your area Updated 9/18/2008 Land Transfer Tax Calculator hide (A) Purchase price \$ 950,000 Calculate Provincial Land Transfer Tax (PLTT) \$ 15,475 Applies to all Ontario properties Toronto Land Transfer Tax (TLTT) \$ 14,725 Applies to all Toronto properties



Statistics and Graphs for Investment Purposes

The following four questions and answers will assist you in deciding whether this property is a good investment option for you.

We have put the property side-by-side comparable properties in its neighbourhood and city allowing you to compare its projected performance and helping you make an informed, factual decision.

How well is this property priced?

Below similar homes recently sold & currently in the market at Willowdale area

Toronto

34 Days

hide

hide

lower

Relative to Similar Home for Sale in Willowdale higher

average \$960,200

average

Relative to

higher \$962,350

This Property

31 Days

Similar Homes Recently Sold in Willowdale

lower

How quickly can I sell this property?

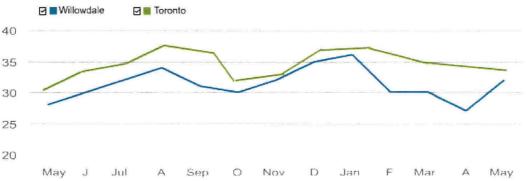
On average similar homes in Willowdale are

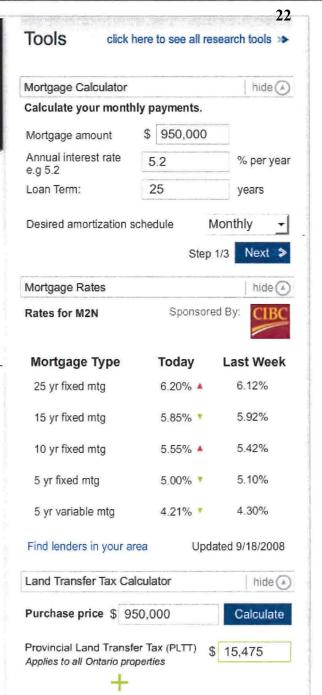
sold 3 days faster than others from Toronto

in the last year

Days on Market of Similar Homes (days)

Change over: 1 year | 3 years | 5 years | All ☑ Willowdale ☑ Toronto





Toronto Land Transfer Tax (TLTT)

Applies to all Toronto properties

\$ 14,725

Most properties in Willowdale are

What are Willowdale's residential property characteristics?

condos and majority of them are owned.

Percentage of Ownership:

67%

VS.

68%

Toronto

Percentage of Condos:

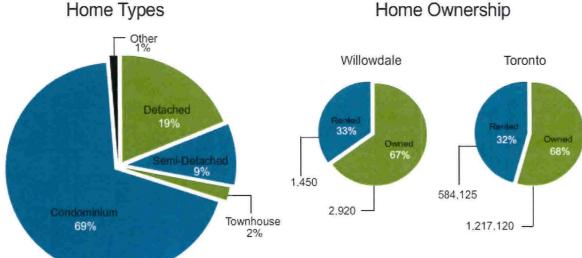
72%

Willowdale

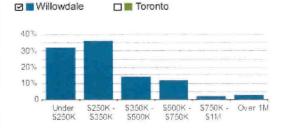
26.5%



Home Ownership



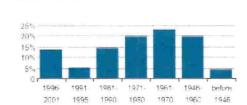
Homes Sold in each Price Range (%) Change over: 1 year | 3 years | 5 years | All



Period of Construction (%)

☑ ■ Willowdale

Change over: 1 year | 3 years | 5 years | All □ ■ Toronto



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Instant Report Tool: our way of helping you to make wiser investment decisions.

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- choose the neighborhoods you are interested in.
- choose the kind of property you want.
- 3 choose the kind of reports you would like to see for your choices.

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expand (v)

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expand (*)

Return On Investment depends on the price, loan terms. taxes and more. Calculate your ROI now.

Affordability

expand (*)

Affordability depends on income, assets, down payment, liabilities and more. See if you can afford this property.

