

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 TARIK GIDAMY,

TheRedPin.com Realty Inc.

I, Tarik Gidamy, of the City of Toronto, Ontario, state as follows:

1. I am a co-founder of TheRedPin.com Realty Inc. I am TheRedPin's broker of record and have been licensed in real estate in Ontario since 1997. I have been a member of The Toronto Real Estate Board (TREB) since that time.

2. Over the years, I have negotiated thousands of transactions ranging from resale homes and condominiums in the greater Toronto area, while working as a broker with Bridal Path Progressive Real Estate Inc., a brokerage in Toronto and as an agent for new home sales and land development for Shane Baghai Developments. In addition, I have also acquired land and developed several custom built homes.
3. Prior to joining TheRedPin as broker of record in 2011, I worked with my co-founders since 2008 on creating and developing the business model for TheRedPin (and its predecessor Realty Teller). My three co-founders are all versed in computer science and technology and my background is in real estate.

TheRedPin's Brokerage Business Model

4. From the beginning, I saw the possibility of a big change in the way a real estate brokerage could be operated, by providing services online over an Internet website. As a Realtor, I recognized that the next wave for the real estate brokerage industry would use technology and the Internet, not only to deliver services such as information to buyers and sellers, but also to make the brokerage itself better and more efficient.
5. The business model of TheRedPin has three key components from my perspective as the broker of record:
 - (a) **Our website "TheRedPin.com"**: TheRedPin.com is a source of a wide range of information for buyers and sellers of real estate in the greater Toronto area ("GTA"), including listing information sourced from TREB's MLS, condominium information from our own database, and information from many other sources. The search capability and content on TheRedPin.com is accessible in an intuitive way for customers. Access to our website lets customers choose what information they want to review at a time of their choosing;

- (b) **Top quality service.** We have very capable and trained agents who have access to technology-based tools and analysis that enhance their ability to provide the best possible client service;
- (c) **Lower prices:** We offer lower prices and are able to do so because of the efficient way we deliver information and services to our customers and clients.

6. The business model of TheRedPin is different from the traditional brokerage models I am familiar with in the GTA. One key difference is TheRedPin's delivery of services using our internet website. We use TheRedPin.com to generate new business (because people who visit the website may become clients of our brokerage) and to inform and educate our potential customers and our clients. If additional data were made available from the TREB MLS, we would add additional tools and services for our clients on TheRedPin.com.

7. Another key difference is how we have structured our business. All of the sales representatives working at TheRedPin are aligned with the same brand, customer service and business philosophy. Our staff sales representatives are on salary and are paid a bonus based on customer satisfaction. This allows our sales representatives (i.e., agents) to focus on service quality. TheRedPin also pays various fees and expenses they incur.

8. A traditional brokerage has associated sales representatives, all of whom essentially run their own businesses as individuals and market and advertise their own personal brand. They may be associated with a brokerage or franchise operation but often have different ways of going about their own businesses. Sales representatives and brokerages share the commissions earned from transactions.

9. Sales representatives associated with traditional brokerages can potentially spend between 40-60% of their time, particularly in the early years, prospecting for new clients. This is known as lead generation. Even very experienced sales representatives will spend one-third to one-half of their time, and perhaps 30 – 50% of their revenues, on promoting and advertising themselves. In addition, a typical sales representative spends significant time networking to meet new people and reinforce relationships with people in their target neighbourhood or niche

market. This kind of marketing and advertising occurs through things like billboards, signage, mail drops, calendars and so on, as well as sponsorship of events and charity functions.

10. At TheRedPin, our sales representatives and I do not spend time on these kinds of activities. Our lead generation is done by TheRedPin.com. Our sales representatives can therefore spend their time on serving clients, and learning more and more about the real estate market, particular neighbourhoods, trends and other facts that build their background knowledge and ability to assist clients to make good decisions about the purchase and sale of a property.

11. This knowledge is also critically important to a sales representative's ability to convert a person who is interested in our brokerage, into a client of the brokerage. Our website will impress and inform potential customers, as well as educate them. Then, when the person contacts the brokerage and wishes to find out more about hiring us, our agents must be knowledgeable and be able to demonstrate immediately how they add value. This gives the buyer or seller a sense of confidence: not only is valuable information available readily and immediately on TheRedPin.com that other brokerages are not providing with the ease and accessibility of a website, but our agents aim to be even better informed and can provide the highest quality advice and service.

TheRedPin's Need for Complete Data Feed From TREB's MLS

12. Our business model requires access to the best possible information from all sources, including TREB's MLS system. It is this aspect of our service – the best website with the best information, and the best people behind the data – that converts potential clients into clients and will allow us to better compete against traditional brokerages who do things differently.

13. To achieve the full potential of the client experience and increase the volume of our business, without hiring an army of new sales representatives, we need a feed with additional data from TREB's MLS system. We want to put the MLS data to its best and highest use and provide the most accurate and timely advice to clients. My sales representatives and I cannot do so without a complete data feed from TREB.

14. Specifically, our brokerage would be in a much better position to prepare accurate and in-depth advice and comparative market analyses (described below) if TheRedPin had a data feed from the TREB MLS that included the following data:

- (a) the sold price of homes and the sold date;
- (b) the price of properties that have conditionally sold;
- (c) the number of days the property has been on the market;
- (d) other status changes (such as when a listing changes from active to conditionally sold, or expires or is terminated);
- (e) information on the offer of commission made by the listing brokerage to the buyer's brokerage;
- (f) the nature of the conditions on any "conditional" sold property and the date the conditions must be met;
- (g) price adjustments; and
- (h) "geocoding" information that shows the latitude and longitude of a property.

15. Having this information in our possession through a data feed would significantly improve the accuracy, timeliness and quality of service we can provide to customers and would enable our brokerage to be more efficient. We can automate significant aspects of our internal Realtor-education and our client service, including advice through comparative market analyses (described below), to ensure that the service our sales representatives and I provide is simply better than our competitors. We can simply do better ourselves due to our technology capabilities at TheRedPin.

Comparative Market Analyses

16. A comparative market analysis, or CMA, is used regularly by brokers and sales representatives in the GTA. CMAs range from relatively simple comparisons, to very detailed analysis. They focus on comparing a listed property for sale (or to be sold) with nearby properties that have recently sold, to determine the value of the subject property. TREB provides a straightforward service to its members through Stratus, that allows agents to prepare a comparison of a property with recently sold homes and other listed homes, using selected characteristics. A report may then be emailed directly to the buyer or seller. More complicated CMAs may involve much more detailed analysis and comparison of available (for sale) properties and recently sold properties as well as many other characteristics of a neighbourhood and data from other sources such as tax assessment data and so on. Very simple CMAs may take 10 or 15 minutes to prepare, while more complicated CMAs may take several hours.

17. Information about sold properties, particularly the price of properties that have recently sold, is fundamental to a CMA. The sold information used in CMAs is of immediate interest to sellers when they approach a Realtor for assistance in selling their property. In my experience, sellers are very interested in knowing what their property may sell for and one of the most important ways to determine a reasonable selling price is through a CMA.

18. Buyers, in my experience, take a slightly different approach. They tend to be more interested initially in the characteristics of the property and neighbourhood and are interested in a CMA to arrive at a possible offer price later in their process, when they are more serious about a particular property. (An exception is buyers who are investors, who are more interested in price or value earlier and may be interested in finding investment properties that are undervalued.)

19. In either case, based on my experience over the past approximately 15 years as a sales agent and broker in the GTA, I believe that information about recent sales of property is easily available to buyers and sellers who contact a Realtor for that information, both before and after the seller enters into a listing agreement or a buyer enters a buyer representation agreement with a Realtor. Realtors provide this information in order to obtain new business and to attempt to convert someone who has approached them into a new client. For my part, I do not provide sold information to the general public, only to clients.

20. When I am working with a client who is interested to list or a buyer who has found the right property, I usually follow a two-step process in preparing CMAs. I typically use a cost-based approach to the property (if it is a unique property), and then carry out a comparison of the subject property with comparable properties that have recently sold using information from TREB's MLS system (if the property is a resale property) and other information such as assessment data from the Municipal Property Assessment Corporation (MPAC). I provide a report with information on the specific comparable properties. With this information, I am able to recommend a reasonable listing or offer price.

Examples of TheRedPin's Uses of the Additional Data

21. I believe that all of the information in TREB's data feed (now and the additional data described above) should be available to a brokerage to use internally as it wishes to do to serve its clients, and to provide all of that information (with certain exceptions) to the clients of the brokerage as the broker and sales agents may decide. There are just a few exceptions which every brokerage and salesperson should know. For instance, sometimes there is information in the "broker remarks" fields of the MLS system which should not be shared, because it is not relevant to the sale or purchase of a property.

22. Brokerages should be able to provide their clients with this information either in person or through another medium, such as a website. While key information that is not in the TREB data feed, particularly sold information, may be provided by other brokerages in person or by email (which I believe are the most common methods of providing information to clients), we are unable to do the same thing through our website. This is a serious competitive disadvantage for our business model.

23. I do not believe that the offer of commission is something that should be excluded from the TREB MLS data feed. A brokerage such as TheRedPin should have that information in the data feed so it can be used *internally* to calculate rebates or refunds that may be paid to a client if a transaction is completed.

24. As for conditional sales, I believe the data field should include both whether a sale is conditional or not (its status) and what the conditions are. A buyer may well continue to be interested in a property that has just changed from an active listing to a conditionally sold listing. With this information, we could better advise interested buyers whether a transaction of a particular property may not go firm and whether, in a particular neighbourhood or building, there is a consistent pattern or trend of conditions not being fulfilled. In addition, we could do this automatically as opposed to manually.

25. Currently through the VOW feed, conditionally sold properties are not provided, which gives potential buyers a false sense of availability.

26. If we had a data feed that contained price changes for a listed property, we would likely send that information by email directly to clients TheRedPin is working with. Particularly where a property may come within an available price range of a client as a result of a price reduction, having previously been outside that range.

SIGNED THIS 22nd DAY OF JUNE, 2012.



TARIK GIDAMY