

Competition Tribunal



Tribunal de la Concurrence

Reference: *The Commissioner of Competition v. The Toronto Real Estate Board*, 2012 Comp. Trib. 06
File No.: CT-2011-003
Registry Document No.: 104

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

AND 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 residential multiple listing service of the Toronto Real Estate Board.

B E T W E E N:

The Commissioner of Competition
(applicant)

and

The Toronto Real Estate Board
(respondent)

and

The Canadian Real Estate Association
Realtysellers Real Estate Inc.
(intervenors)



Date of conference call: 20120131
Before Judicial Member: Simpson J. (Chairperson)
Date of Order: February 7, 2012
Order signed by: Madam Justice Sandra J. Simpson

REVISED SCHEDULING ORDER

[1] **FURTHER TO** the application filed by the Commissioner of Competition pursuant to section 79 of the *Competition Act*, R.S.C. 1985, c. C-34;

[2] **AND FURTHER TO** the discussion held with counsel for the parties and intervenors during the case management conference call on January 31, 2012 (the “Conference Call”) regarding amendments to the Tribunal’s Scheduling Order dated January 19, 2012 (the “Scheduling Order”);

[3] **AND FURTHER TO** the draft revised scheduling order filed by counsel for the Commissioner of Competition on February 3, 2012 and reviewed by all counsel;

[4] **AND WHEREAS** the Tribunal has examined the draft revised scheduling order and is of the view that it accurately reflects the rulings made by the Tribunal during the Conference Call.

FOR THESE REASONS, THE TRIBUNAL ORDERS THAT:

[5] The Scheduling Order is amended as follows:

Friday, January 20, 2012	Deadline for production of all documents and for delivery of parties’ and CREA’s Affidavits of Documents, including detailed Schedule B (Rule 60) TREB to produce documents before January 20, 2012 on a best efforts basis
Wednesday, February 8, 2012	Extended deadline for TREB to serve its Affidavit of Documents and provide copies of all productions
Friday, February 10, 2012	Deadline to serve/file motions on Affidavits of Documents served by the Commissioner and CREA
Wednesday, February 15, 2012	Commissioner and CREA to file any materials responding to motions commenced by February 10, 2012
Friday, February 17, 2012	Hearing of any motions involving the Commissioner’s and CREA’s Affidavits of Documents and productions
Monday, February 27, 2012	Deadline to serve/file motions on TREB’s Affidavit of Documents
Wednesday, February 29, 2012	Deadline for Production of Documents ordered at motion(s) on February 17, 2012 (unless otherwise ordered)

Week of March 5, 2012	Hearing of any motions commenced by February 27, 2012 involving TREB's Affidavit of Documents and productions [Date to be confirmed by Tribunal]
Weeks of March 12 and 19 and/or 26, 2012	Examinations for Discovery of TREB [Dates to be agreed by counsel]
	Examinations for Discovery of Commissioner of Competition [Dates to be agreed by counsel]
Thursday, April 5, 2012	Examination for Discovery of CREA
April/May 2012	Additional Examinations for Discovery (as may be ordered by the Tribunal or agreed by counsel)
Monday, April 9, 2012	Deadline for answers to undertakings
Friday, April 20, 2012	Deadline for motions filed/served re: examinations for discovery and answers to undertakings and constitutional issues.
Friday, April 27, 2012	Hearing of any motions (including constitutional issues notified by April 2, 2012) and questions arising from answers to undertakings
Tuesday, May 15, 2012	Deadline for compliance with any order from motions (unless otherwise ordered)
Wednesday, May 30, 2012	Deadline for the completion of any further discovery examination (as may be ordered by the Tribunal or agreed by counsel)
Friday, June 22, 2012	Deadline for service of Commissioner's witness statements, expert report(s) and list of documents to be relied on (Rules 68 and 77)
Friday, July 20, 2012	Deadline for service of Commissioner's list of the documents to be admitted without further proof (Rule 72)
Friday, July 27, 2012	Deadline for service of TREB's witness statements, expert report(s) and list of documents to be relied on (Rules 69 and 77)
TBA	Pre-Hearing Conference

Friday, August 3, 2012	Deadline for service of Intervenor's witness statement, expert reports and list of documents to be relied upon
Friday, August 10, 2012	Deadline for service of Requests to Admit (Rule 56)
Friday, August 17, 2012	Service of Commissioner's additional reply witness statements, expert reply reports and reply documents to be relied on (Rules 70 and 77)
Wednesday, August 22, 2012	Deadline for the hearing of any motions about evidence and any motions for summary judgment. Deadline for dividing up the hearing time – see paragraph 8 below
Friday, August 24, 2012	Deadline for Responses to Requests to Admit (Rule 57)
Friday, August 24, 2012	Deadline for providing the Tribunal with documents, including witness statements and expert reports (Rules 74 and 78)
Wednesday, August 29, 2012	Deadline for the hearing of any motions about any Responding or Reply evidence served by the Commissioner or TREB

[6] The evidentiary portion of the hearing of this application shall commence on September 10, 2012, in Toronto, Ontario. The schedule shall be as follows:

Week of September 10, 2012 (5 days)	1 st week of hearing (Monday to Friday)
Week of September 17, 2012 (3 days)	2 nd week of hearing (Monday, Tuesday and Friday)
Week of September 24, 2012 (4 days)	3 rd week of hearing (Monday, Tuesday, Thursday and Friday)
Week of October 1, 2012 (3 days)	4 th week of hearing (Monday, Tuesday and Friday)
Week of October 8, 2012 (1-2 days)	5 th week of hearing, if required (Tuesday and Wednesday)

[7] The hearing will proceed using chess clock timing. The parties and intervenors will advise the Tribunal Registry, on or before Wednesday, August 22, 2012, of their agreement about the division of time for the evidentiary portion of the hearing. The total time available is 4.5 hours per day x 16 days = 72 hours.

[8] The Tribunal will hear oral argument from Wednesday, October 17 to Friday, October 19, 2012.

DATED at Ottawa, this 7th day of February, 2012.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

COUNSEL:

For the applicant:

The Commissioner of Competition

John Rook
Andrew D. Little

For the respondent:

The Toronto Real Estate Board

Donald Affleck Q.C.
Renai E. Williams

For the intervenors:

Realtysellers Real Estate Inc.

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