



Reference: *Commissioner of Competition v. Toronto Real Estate Board*, 2011 Comp. Trib. 22
File No.: CT-2011-003
Registry Document No.: 77

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 the 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

**Canadian Real Estate Association and
Realtysellers Real Estate Inc.**
(moving parties)



Date of hearing: 20111018
Before Judicial Member: Simpson J. (Chairperson)
Date of Reasons and Order: November 2, 2011
Reasons and Order signed by: Madam Justice Sandra J. Simpson

**REASONS AND ORDER REGARDING MOTIONS TO INTERVENE BY
REALTYSELLERS REAL ESTATE INC. AND THE CANADIAN REAL ESTATE
ASSOCIATION**

I. INTRODUCTION

[1] The Canadian Real Estate Association (“CREA”) and Realtysellers Real Estate Inc. are seeking leave to intervene in proceedings commenced by the Commissioner of Competition against the Toronto Real Estate Board pursuant to section 79 (the abuse of dominance provision) of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the “Act”). Both motions for leave to intervene were heard by the Competition Tribunal (the “Tribunal”) on October 18, 2011, in Toronto.

II. THE PARTIES

[2] The Commissioner of Competition (the “Commissioner”) is responsible for the administration and enforcement the Act.

[3] The Respondent, the Toronto Real Estate Board (“TREB”), is an Ontario corporation without share capital. It has approximately 32, 000 members, including brokers and agents. TREB seeks to advance and promote the interests of those engaged in real estate and to institute, promote and manage listing systems. TREB is a member of CREA and is a licensee of the trademarks owned by CREA and described below.

[4] TREB owns the TREB Multiple Listing System (the “TREB MLS System”). It compiles listings of residential property for sale in the Greater Toronto Area by TREB members and contains historical information regarding the sale of residential real estate (collectively the “MLS Data”).

III. THE COMMISSIONER’S APPLICATION

[5] On May 27, 2011, the Commissioner filed an application with the Tribunal (the “Original Application”). She alleged that TREB was using its control of the TREB MLS System to enact and interpret rules, policies and agreements with exclusionary and restrictive effects (the “MLS Restrictions”) on brokers’ access to and use of the TREB MLS System. In particular, she alleged that TREB’s MLS Restrictions prevented innovative brokers from using a secure, password-protected “virtual office website” (“VOW”) to provide real estate brokerage services to their customers over the Internet.

[6] In late June, 2011, TREB advised its members that it had published a proposal for a VOW Policy and Rules (the “Proposed VOW Rules”). In response, on July 7, 2011, the Commissioner filed an amended notice of application (the “Amended Application”) to take issue with TREB’s new rules which she included in her definition of TREB’s MLS Restrictions. The Amended Application shows that the Proposed VOW Rules are now the vehicle TREB will use to manage VOWs. Those rules have been approved by TREB but have not yet been enacted.

[7] In her Amended Application, the Commissioner alleges that the Proposed VOW Rules will constitute a further anti-competitive act. She asserts that they will impose obligations and restrictions on member brokers who wish to operate VOWs that are not imposed on traditional brokers. Paragraph 35 of the Amended Application describes the Proposed VOW Rules. It reads:

Specifically, under TREB's Proposed Rules, TREB will, under certain conditions, provide a data feed for those member brokers who wish to establish a website to display listings for residential properties currently available for sale. However, according to TREB's Proposed Rules, member brokers may not make available for search or display on a VOW the following information (all of which is available in TREB's MLS system and is provided today by members to customers by hand, email or fax):

- (a) MLS data on pending solds, including listings where sellers and buyers have entered into an agreement that has not yet closed;
- (b) MLS data on sold properties, unless the method of use of the actual sales price of completed transactions is in compliance with the rules of the Real Estate Council of Ontario ("RECO") and applicable privacy laws;
- (c) The compensation offered by the seller's broker to the buyer's broker.

In addition, and significantly given the value potential customers place on this information, the data feed provided to member brokers for VOWs will not include any MLS data pertaining to sold properties, unless the data is "readily publicly accessible". This restriction does not apply in a "bricks and mortar" environment; as such TREB's Proposed Rules discriminate and are in violation of the Act.

[8] The Commissioner alleges that by restricting member brokers' websites to the display of current listings, TREB's Proposed VOW Rules will deny both member brokers and their customers the benefits of the efficient, innovative VOW model of delivering brokerage services.

IV. THE PROPOSED INTERVENORS

[9] CREA and Realtysellers Real Estate Inc. ("RS") are seeking leave to intervene. I will deal with them in turn.

(i) **CREA**

[10] CREA represents over 100,000 real estate brokers and agents working through approximately 100 real estate boards and associations, including provincial and territorial associations across Canada. CREA owns the Multiple Listing Service trademark, the MLS trademark and the associated logos and is a co-owner of the REALTOR and REALTORS trademarks and the associated logos.

[11] The affidavit of Gary Simonsen (the "Simonsen Affidavit"), sworn on August 31, 2011, was filed in support of the request for leave to intervene. Mr. Simonsen is the Chief Executive Officer of CREA.

[12] CREA, if granted leave to intervene, intends to support TREB's position but will do so from its perspective as the national representative of the Canadian real estate industry. TREB supports CREA's motion for leave to intervene. However, the Commissioner opposes CREA's motion.

(ii) *Realtysellers Real Estate Inc.*

[13] RS is a residential real estate resale brokerage and a member of TREB and CREA. The affidavit of Lawrence Mark Dale, sworn on September 1, 2011, was filed in support of the RS request for leave. Mr. Dale is the founder, President and CEO of RS. He explains in paragraph 10 of his affidavit that, in June 2011, he re-entered the residential real estate brokerage marketplace as a result of the Commissioner's decision to commence this proceeding. He said that although RS has only been operating for less than two months, it has established itself as TREB's largest non-traditional brokerage.

[14] RS says that, if it can receive MLS Data over the Internet in a virtual office, it will be able to supply innovative low cost services to both buyers and sellers of real estate.

[15] If granted leave, RS says that it intends to generally support the Commissioner's position. The Commissioner does not oppose RS's request for leave to intervene but TREB is opposed.

V. IMPROPER EVIDENCE

From RS:

[16] On Friday, October 14, 2011, RS filed a reply in accordance with the Tribunal's decision of October 3, 2011 (see *The Commissioner of Competition v. The Toronto Real Estate Board*, 2011 Comp. Trib. 15). Accompanying the reply was the affidavit of Allan M. Spivak, the Vice President and Broker of Record for RS. Before the affidavit and reply were filed, RS changed solicitors so that it was its new counsel who prepared the affidavit.

[17] At the hearing of the motions for leave to intervene, notwithstanding his able submissions, the Tribunal advised counsel for RS that it would disregard the Spivak Affidavit. The *Competition Tribunal Rules*, SOR/2008-141, governing motions for leave to intervene, do not allow a moving party to file reply evidence and the rule applies even if a new lawyer is retained. All moving parties' evidence must be filed with the motion for leave to intervene (see Rule 43).

From TREB:

[18] Rule 44 was disregarded by TREB. That rule permits the filing of a response to a motion for leave to intervene. That response is essentially a critique of the motion. Evidence is not permitted. TREB attached two appendices to its response and they will be disregarded.

From CREA:

[19] CREA filed a supplementary affidavit sworn by Gary Simonsen on September 20, 2011. Again, in spite of counsel's able submissions, CREA's supplementary affidavit will not be considered because the rules do not allow intervenors to file two affidavits.

VI. THE TEST FOR LEAVE TO INTERVENE

[20] Subsection 9(3) of the *Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd sup.) provides as follows:

(3) Any person may, with leave of the Tribunal, intervene in any proceedings before the Tribunal, other than proceedings under Part VII.1 of the *Competition Act*, to make representations relevant to those proceedings in respect of any matter that affects that person.

[21] In *Commissioner of Competition v. Canadian Waste Services Holdings Inc.*, 2000 Comp. Trib. 10, the Tribunal held that it must be satisfied that all the following elements are met :

- (1) The person seeking leave to intervene must be directly affected.
- (2) The matter alleged to affect that person seeking leave to intervene must be legitimately within the scope of the Tribunal's consideration or must be a matter sufficiently relevant to the Tribunal's mandate.
- (3) All representations made by a person seeking leave to intervene must be relevant to an issue specifically raised by the Commissioner.
- (4) Finally, the person seeking leave to intervene must bring to the Tribunal a unique or distinct perspective that will assist the Tribunal in deciding the issues before it.

VII. THE BREADTH OF THE COMMISSIONER'S APPLICATION

[22] Counsel for the Commissioner says that the Amended Application has dramatically narrowed the scope of the inquiry so that it deals only with VOWs and with the Proposed VOW Rules. During the hearing of the motions, he said:

The narrow issue before the Tribunal is simple: Are these ongoing restrictions appropriate or do they contravene, as the Commissioner alleges, section 79 of the *Competition Act*? That is the issue.

The ongoing restrictions are the Proposed VOW Rules described above and found in paragraph 35 of the Amended Application.

[23] However, counsel for CREA disagreed with the submission that the focus of the Amended Application is now narrow. She noted that when the Amended Application was drafted, the broad language in the Original Application dealing with the order sought was retained. In particular, counsel for CREA pointed to the opening passage and to paras. 10 and 66 (a & b) of the Amended Application to show that it deals with methods and devices other than VOWs for the distribution of MLS Data over the Internet and that it deals with restrictions beyond the Proposed VOW Rules. The passages to which she referred read as follows:

TAKE NOTICE that the Applicant will make an application to the Competition Tribunal (the “Tribunal”) pursuant to section 79 of the *Competition Act* (the “Act”) for an order pursuant to subsections 79(1) and (2) of the Act, prohibiting the Respondent from enacting, interpreting and enforcing rules, policies, and agreements that exclude, prevent or impede the entry of innovative business models and impose restrictions on real estate brokers who wish to use the Internet to more efficiently serve home buyers and home sellers. The particulars of the Order sought by the Applicant are set out in paragraph 66.

10. The Commissioner therefore seeks an Order prohibiting TREB from directly or indirectly enacting, interpreting or enforcing restrictions, including the TREB MLS Restrictions, that exclude, prevent or discriminate against TREB member brokers who wish to use the information in the TREB MLS system to offer services over the Internet, such as through a VOW as described in this Application; ...

66. The Commissioner therefore seeks an Order under sections 79(1) and (2):

- (a) prohibiting TREB from directly or indirectly enacting, interpreting or enforcing any restrictions, including the TREB MLS Restrictions, that exclude, prevent or discriminate against TREB member brokers who wish to use the information in the TREB MLS system to offer services over the Internet, such as through a VOW as described in this Application;
- (b) directing TREB to implement such resources and facilities as the Tribunal deems necessary to ensure the operation of VOWs or similar services by, or on behalf of, member brokers.

[24] I note that paragraphs 10 and 66(a) use the words “such as through a VOW”. This language suggests that the order sought is intended to cover methods other than VOWs for disseminating MLS Data over the Internet. This conclusion is fortified by the language in paragraph 66(b) which mentions “VOWs or similar services”. In this context, services means other methods of using the Internet to provide customers with MLS Data. Accordingly, I agree with CREA’s submission that the order sought is not restricted to VOWs.

[25] CREA also submits, and I agree, that the order sought is not limited to the Proposed VOW Rules because the language used in paragraphs 10 and 66(a) covers restrictions

“including” the TREB MLS Restrictions. This means that other restrictions which TREB might impose or rely on in the future, might be caught by the order.

[26] After reaching conclusions on the contradictory submissions, I also considered the Commissioner’s entire Amended Application and found that paras. 56, 58 and 59 all speak of TREB’s efforts to block VOWs and other innovative Internet-based business models.

[27] Because of these paragraphs, I am confident of my earlier conclusion that VOWs and other methods for delivering MLS Data to brokers’ customers over the Internet, are the subject of the Commissioner’s Amended Application.

[28] It is also my view, having consulted the Amended Application, that all the MLS Restrictions and not just the Proposed VOW Rules are at issue.

[29] Against this background, I turn to the requests for leave.

VIII. CREA’s REQUEST TO INTERVENE

[30] CREA asks for leave to intervene to deal with the following topics:

- (a) The appropriate definition of the product and geographic markets.
- (b) The development, use and competitive impact of VOWs and other Internet data-sharing vehicles in Canada.
- (c) The appropriate terms of use/conditions/requirements to be included in a policy/rule that implements a VOW or other Internet data-sharing vehicles.
- (d) The impact of any proposed remedies on CREA and its members, including on the MLS® and REALTOR® Trademarks.
- (e) The suitability and appropriateness of any proposed remedies, including their effects on innovation and fees for consumers.

(a) The Appropriate Definition of the Product and Geographic Markets

[31] In its Response to the Amended Application, TREB does not admit that it agrees with the Commissioner’s definitions of the product and geographic markets. Yet, in para. 30, it adopts those definitions and pleads to them. This appears to indicate, as counsel for CREA submitted, that there is no serious dispute. However, TREB’s Concise Statement of Economic Theory shows that at least the product market definition is seriously in dispute. In my view, for this reason, TREB can be expected to deal with the issue of product market definition.

[32] With regard to the geographic market, there is nothing in the Simonsen Affidavit to suggest that CREA is in a unique position or brings a distinct perspective and it should be remembered that this case does not involve the provision of brokerage services across Canada.

(b) The Development, Use and Competitive Impact of VOWs and Other Internet Data-Sharing Vehicles in Canada

[33] The Simonsen Affidavit shows that CREA has experience with vehicles other than VOWs for the sharing of MLS Data over the Internet. In my view, this experience puts CREA in a unique position. Further, it is directly affected because the orders sought by the Commissioner may have an impact on the rules it may impose when it offers those vehicles to its members.

[34] Accordingly, CREA will be given leave to intervene on this topic as it relates to other Internet data-sharing vehicles in Canada. I have not given leave on this topic as it relates to VOWs because CREA does not have a unique position. I am confident that, if TREB thinks the Tribunal would benefit from information about the development, use and competitive impact of VOWs, it will adduce that evidence.

(c) The Appropriate Terms of Use/Conditions/Requirements to be Included in a Policy/Rule that Implements a VOW or Other Internet Data-Sharing Vehicles

[35] With regard to VOWs there is no reason to think that CREA offers a unique or distinct perspective on policies and rules. While CREA has developed rules and guidelines its members may use, the Simonsen Affidavit makes it clear that TREB is free to set its own VOW rules. Since TREB has done so and since TREB's Proposed VOW Rules are the primary focus of this application, I cannot conclude that CREA has a unique perspective.

[36] However, CREA does bring a unique perspective to this topic as it relates to other Internet data-sharing vehicles and, because an order made by the Tribunal may impact the rules it can impose on its members for their use, CREA is directly affected. Accordingly, leave to intervene will be given on this topic but only as it relates to other Internet data-sharing vehicles.

(d) The Impact of Proposed Remedies on CREA and its Members, Including on MLS® and REALTOR® Trademarks

[37] I am persuaded that CREA will be directly affected by an order dealing with the lawfulness of TREB's Proposed VOW Rules because, according to the Simonsen Affidavit, CREA has been trying and has so far failed to reach an agreement with the Commissioner about what rules it can impose when it provides MLS Data for VOWs directly to its members. For this reason, the Tribunal's ruling on the propriety or otherwise of TREB's MLS Restrictions is likely to have precedential impact on the rules CREA may establish. As well, only CREA can address the impact the proposed remedies will have on CREA.

[38] CREA also submits that it is directly affected as owner and co-owner of the MLS and REALTOR Trademarks because the issues in these proceedings impact its trademark rights in those marks. CREA says that it has been diligent to ensure that those trademarks are associated with a standard of professionalism and with the provision of accurate and up-to-date information. As a result, CREA submits that it has a direct interest in ensuring that any use on the Internet of

MLS Data is subject to rules and policies that protect those standards and a unique perspective on those issues. For these reasons, CREA will have leave to intervene on this topic.

(e) The Suitability and Appropriateness of any Proposed Remedies, Including their Effects on Innovation and Fees for Consumers

[39] I interpret this topic to mean that CREA wishes to adduce evidence about whether the MLS Restrictions will have an impact on innovation and on fees paid by consumers. I note that TREB has joined issue with the Commissioner on these issues. In my view, TREB is in the best position to deal with these topics and since I am not persuaded that CREA has a unique or distinct perspective, an intervention on these subjects will not be permitted.

[40] To summarize, CREA is granted leave to intervene to address the following topics (the “Topics”):

- (i) The Development, Use and Competitive Impact of Internet Data-Sharing Vehicles in Canada (other than VOWs);
- (ii) The Appropriate Terms of Use/Conditions/Requirements to be Included in a Policy/Rule that Implements Internet Data Sharing Vehicles (other than VOWs);
- (iii) The Impact of Proposed Remedies on CREA and its Members, Including on the MLS and REALTOR Trademarks

IX. THE SCOPE OF CREA’S INTERVENTION

[41] In its role as an intervenor, CREA is to:

- Prepare an affidavit of documents listing documents relevant to its Topics.
- Produce those documents to the extent that they are not privileged.
- Provide a representative of CREA for examination for discovery on its Topics by counsel for the Commissioner who is to have a maximum of eight hours for the examination.
- Abide by the terms of any Confidentiality Order made by the Tribunal.

[42] As an intervenor, CREA may:

- Review all discovery transcripts and productions.
- Call two witnesses (fact or expert) at the hearing to give evidence on the Topics as long as that evidence does not duplicate evidence given by TREB.
- Cross-examine the Commissioner’s witnesses on the Topics to the extent that the questions do not duplicate those posed by counsel for TREB.
- Participate in pre-hearing proceedings.
- Make oral and written submissions on the Topics.

[43] CREA has asked to intervene on the basis that it not be liable for costs and will not seek costs. I accept the latter position but, in my view, an order saying that CREA is not liable for costs, if made now, would be premature. While I have no doubt that CREA will behave responsibly and abide by the terms on which its intervention has been allowed, I do not want to

fetter the discretion of the panel hearing this matter to make an adverse costs award should unforeseen circumstances develop.

X. RS's REQUEST TO INTERVENE

[44] In my view, although it is a new company which, for the moment, operates on the “sell” side of the business of operating a real estate brokerage, RS has a distinct perspective and is directly affected by TREB’s MLS Restrictions, including the Proposed VOW Rules. According to the Dale Affidavit, it is those rules that are blocking RS’s plans to expand into the “buy” side of the business using a VOW. RS is the only broker which has indicated to the Tribunal that it has such plans.

[45] The next question is whether the topics on which RS seeks to intervene are relevant to a matter before the Tribunal.

[46] RS has proposed the following topics for its intervention:

- (a) How a brokerage like Realtysellers would operate a virtual office and provide MLS information to consumers over the Internet as opposed to through a bricks and mortar office and by hand;
- (b) The cost savings and operational efficiencies of operating a virtual office and the savings that can be passed along to consumers;
- (c) The impact of the current TREB rules and policies including its recent VOW policy on a non-traditional brokerage like Realtysellers who wants to provide consumers with MLS information in a virtual office environment over the internet as opposed to through a bricks and mortar office by hand;
- (d) The absence of any privacy issues and other issues preventing virtual offices as described herein; and
- (e) The Proposed Order and the impact it will have on non-traditional brokerages who want to provide consumers with MLS information through its virtual office over the internet as opposed to through a bricks and mortar office by hand.

[47] According to the submissions by its counsel, RS is concerned that the Commissioner’s focus on a virtual brokerage using the Internet and a VOW is too narrow. RS wishes to suggest that any order made by the Tribunal should address other means beyond VOWs of sharing MLS Data over the Internet. RS also wishes to look ahead and asks the Tribunal to consider what the Internet may look like in the future.

[48] All RS's topics focus on its model of a virtual office and its view of the rules needed to make such an office function with whatever Internet or other devices RS may wish to employ to provide its customers with the MLS Data.

[49] In this regard, counsel for RS said the following:

...Realtysellers believes that the focus of the application on VOWs and the Internet is somewhat narrower than it believes should be the focus, or that there should be consideration given to how the industry is going to move beyond VOWs and to make sure that this Tribunal understands where the industry is going and how the TREB rules at issue affect and impede innovation at the expense of consumers.

Again, our issue is slightly different than the Commissioner's issue, because our, Realtyseller's position is very, very simply anything TREB allows to be provided by hand should be able to be provided however a brokerage thinks it's best serving its customers.

Basically, we are entering a new world where consumers want information where, when, and how they want it, and they don't want to have to come to – they don't want to have to come to a brokerage. They don't want to deal with a realtor, and they may not want to be limited to VOWs.

For example, there may be, you know, iPhone applications. There may be all sorts of other ways that go beyond sort of the VOW or the Internet notion that Realtysellers is ideally positioned to advise a Tribunal on, that it can properly consider the scope of the impact of the rules and the type of remedy that is required.

Now, with respect to the specific topics that Realtysellers has requested the right to intervene, the first one is how Realtysellers would operate a virtual office. And, by definition, how Realtysellers believes it is going to operate is distinct from the Commissioner's view of what the market is or isn't.

Again, the Commissioner's focus is on a particular form of VOW and the Internet. Realtysellers has a view beyond that. And --

[50] It is clear from these submissions and from the language of RS's proposed topics that it wishes to describe for the Tribunal its concept of a virtual office which will use devices or vehicles other than Internet websites to disseminate MLS Data. It then wants the Tribunal to consider TREB's Proposed VOW Rules in light of their impact on RS's use of such devices to ensure that any order the Tribunal makes does not leave open the possibility of a future dispute about what constitutes providing MLS Data over the Internet.

[51] On this issue RS's counsel said:

And I think that hearing what Realtysellers has to say on this point may help the Tribunal craft a remedy, if it decides one is appropriate, that doesn't, you know, necessitate a fight down the road as to what constitutes providing MLS data by Internet.

So we can speak to where the metes and bounds of the technologies or where the metes and bounds of a remedy should be so we don't unduly create a too narrow remedy that can then be interpreted aggressively to foreclose innovation beyond what some people think the Internet, is what the Internet is today and where it may be tomorrow.

[52] The Tribunal will not hear speculation and undertake a broad inquiry about what the Internet might look like in the future and what data-sharing vehicles might exist that do not use the Internet as we know it. To proceed beyond the present Internet would be to move the hearing beyond the four corners of the Commissioner's Amended Application. Accordingly, the Tribunal will only consider data-sharing vehicles that use current Internet technology. Subject to this limitation, which will be strictly enforced, I have decided to grant RS leave to intervene to address its topics (b), (c), and (e) (the "RS Topics") because, as noted earlier, it is directly affected, has a distinct perspective and these topics are relevant in the context of the Amended Application.

[53] There is a further caveat. Because of the lengthy litigation history and the current lawsuits between RS's senior executives and TREB in which damages totalling more than half a billion dollars are claimed, counsel for RS undertook not to call Lawrence Dale as a witness on the RS Topics. In my view, testimony from Fraser Beach should also be excluded and I have decided that he is also prohibited from testifying on the RS Topics.

[54] I have declined to grant leave on topic (a) because it is similar to topic (c). In the context of topic (c), the Tribunal will hear evidence about RS's view of how it will operate a virtual office over the current Internet and of the difficulties caused by the MLS Restrictions.

[55] I have also declined to grant leave on topic (d) because this is the one topic proposed by RS on which it does not bring a unique perspective. The Commissioner can deal with these issues.

XI. THE SCOPE OF RS's INTERVENTIONS

[56] In its role as an intervenor, RS is to abide by the terms of any confidentiality order made by the Tribunal.

[57] I should note that I have not ordered RS to produce documents or to provide a representative for discovery because counsel for TREB made it clear that it has no interest in having RS participate in that manner.

[58] As an intervenor, RS may:

- Review transcripts of the parties' examinations for discovery and productions, as they relate to the RS Topics. Counsel for the Commissioner and for TREB are to work together to decide what portions of the transcripts and productions are given to RS.
- Call one fact witness at the hearing to give evidence about the RS Topics which does not duplicate evidence adduced by the Commissioner.
- Make oral and written representations on the RS Topics.
- Participate in pre-hearing proceedings.
- Cross-examine on the RS Topics to the extent that its questions are not repetitive.

ORDER

[59] For these reasons, the Tribunal orders that CREA may intervene on the Topics and in the manner described above and RS may intervene on the RS Topics with the caveats and in the manner described above.

DATED at Ottawa, this 2nd day of November, 2011.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

APPEARANCES:

For the applicant:

The Commissioner of Competition:

John F. Rook
Andrew D. Little

For the respondent:

The Toronto Real Estate Board

Donald S. Affleck
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For the proposed intervenors:

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