IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***The Registrar of Mortgage Brokers v. Financial Services Tribunal and Matick,*** 2007 BCSC 1118

Date: 20070726
Docket: S-067997
Registry: Vancouver

Re: *Judicial Review Procedure Act*, R.S.B.C. 1996 C. 241 and the ***Mortgage Brokers Act,*** R.S.B.C. 1996 C. 313

Between:

The Registrar of Mortgage Brokers

Petitioner

And

Financial Services Tribunal and Robert Matick

Respondents

IN THE SUPREME COURT OF BRITISH COLUMBIA

Docket: S-067931
Registry: Vancouver

Between:

Robert Matick

Petitioner

And

Registrar of Mortgage Brokers and the Financial Services Tribunal

Respondents

Before: The Honourable Mr. Justice Rice

Reasons for Judgment

Counsel for the Respondent/Petitioner Robert Matick — Derek A. Brindle, Q.C. and Wei Kiat Sun

Counsel for the Petitioner/Respondent The Registrar of Mortgage Brokers:	Jonathan Penner
Date and Place of Trial/Hearing:	June 13, 14 & 15, 2007 Vancouver, B.C.

INTRODUCTION

[1] This is an application pursuant to Rule 10 and the ***Judicial Review Procedure Act*** R.S.B.C. 1996, c. 241. for review of a decision of the Financial Services Tribunal made October 13, 2006. The Tribunal's decision was, in turn, on an appeal of a decision made June 1, 2006 by the Registrar of Mortgage Brokers.

[2] The Registrar's decision was, firstly, that the petitioner Mr. Matick breached s. 17.3 of the ***Mortgage Brokers Act***, R.S.B.C. 1996, c. 313 (the ***"Act"***) by failing to disclose his wife's interest in certain of his mortgage transactions. Mr. Matick's wife, Kim Matick, in her position as an employee of TD Canada Trust, had referred people looking for mortgages to her husband.

[3] The Registrar also found that Mr. Matick breached his duties under s. 8.1 of the ***Act*** as a submortgage broker by receiving from another employee of TD Canada certain confidential information about borrowers that he was not entitled to receive

[4] The Registrar imposed a penalty fine of $1,500 and required Mr. Matick to take and to pass a mortgage broker's course and an ethics course acceptable to the Registrar before being allowed to continue as a submortgage broker.

[5] In separate petitions, Mr. Matick and the Registrar have applied for a judicial review of the Tribunal's decision The petitions were set to be heard concurrently. The parties agree and I agree that none of the facts are contested.

REGISTRAR'S DECISION

[6] The Registrar's reasons with respect to s. 17.3 of the Act were expressed as follows:

> After reviewing all the evidence, the submissions of the parties and the affidavit of Kim Matick, I am of the opinion that Matick was required to:
>
> > Complete the disclosure form ("Form 10") as contemplated by the Act; and
> >
> > In completing Form 10, disclose the fact his wife had an interest in the transaction.
> >
> > My reasons for believing he had to complete the disclosure form are as follows:
> >
> > Mortgage Intelligence, the mortgage broker, is in fact a company and as such is not capable of completing a disclosure form;
> >
> > Only an employee of Mortgage Intelligence is capable of completing the Form 10;
> >
> > Matick completed the disclosure form and signed as an authorized representative of the mortgage broker beneath the following certification: "*I certify that I am the mortgage broker or an authorized representative of the mortgage broker in this transaction and based on my knowledge, belief and information provided by third parties, this Disclosure Statement contains no untrue statement and does not omit to state a fact that is required to be stated or that is necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made*";
> >
> > Matick is the only employee of Mortgage Intelligence who could have properly completed the Form 10 as he is the only one who would be in a position to know what conflicts may or may not exist in the transaction.

> My reasons for believing he had to disclose the fact his wife had an interest in the transactions are:
>
> Kim Matick is clearly an associate of Matick as defined in Regulation 13 of the *Act*;
>
> Their evidence with respect to their financial arrangements is simply not believable given they have been married 30 years;
>
> The inconsistencies between the oral evidence of Kim Matick and her affidavit evidence, (exhibit 4);
>
> Also Kim Matick as spouse of Matick has an interest in the transaction which goes beyond receiving any financial benefit from the transaction;
>
> For example, each party in a long term marriage, such as the Maticks, has to be concerned about the success or failure of their partner. It was for this very reason, to ensure he did succeed as a submortgage broker, that Kim Matick made the referrals. As a result, she obviously had an interest in each and every deal and that fact should have been disclosed.
>
> As a result, I find Matick breached Section 17.3 of the Act.

DECISION OF TRIBUNAL

[7] The Tribunal upheld the Registrar's finding that Mr. Matick breached s. 17.3 of the ***Act.*** Noting that a submortgage broker is defined in the ***Act*** as "any person who actively engages in any of the things referred to in the definition of mortgage broker…", the Tribunal concluded that because there were overlapping rules and obligations between a mortgage broker and submortgage broker, the extent of the overlap must be left to be determined by the Registrar given the specific circumstances at hand. However, the Tribunal substituted a "reprimand" for the

Registrar's cash penalty.

[8] The Tribunal allowed Mr. Matick's appeal on use of confidential information under s. 8.1. It found that Mr. Matick did not solicit or purposely collect the information, but rather it was sent to him by the TD bank employee on her own initiative. The Tribunal found that it was logical and reasonable for Mr. Matick to believe that all of that information had come to him with the permission of the customer. Mr. Matick did not act on the information and it was not reasonable to conclude that he had acted in a manner prejudicial to the public solely because he was in possession of the information.

INTERPRETATION

[9] Mr. Matick was a registered "**submortgage broker**" as defined in Section 1 of the ***Act***:

> "submortgage broker" means any person who, in British Columbia, actively engages in any of the things referred to in the definition of mortgage broker and is employed, either generally or in a particular case, by, or as a director or a partner of, a mortgage broker.

[10] Mr. Matick was employed by Mortgage Intelligence Inc., a registered "**mortgage broker**" as defined in Section 1 of the ***Act***:

[11] Section 17.3 of Division 4 of the ***Act*** requires a mortgage broker to give every borrower a Conflict of Interest Disclosure Statement, in a statutorily prescribed form:

> **17.3 (1)** Every mortgage broker who acts in a mortgage transaction in

> which there is an interest as described in subsection (2) (a) must, within the prescribed time, provide to every person who is a borrower under a mortgage in that transaction a written disclosure statement that meets the requirements of subsection (2).
>
> (2) The disclosure statement referred to in subsection (1) must
>
> > (a) disclose any direct or indirect interest the mortgage broker or any associate or related party of the mortgage broker has or may acquire in the transaction,
> >
> > (b) include the prescribed contents and be accompanied by any documents that are prescribed,
> >
> > (c) be dated and signed by the mortgage broker, and7
> >
> > (d) contain disclosure that is true, plain and not misleading of the matters in the prescribed contents referred to in paragraph (b).

[12] Under s. 13.1 of the ***Mortgage Brokers Act Regulations***, B.C. Reg. 187/2006, Kim Matick, as Mr. Matick's wife, is his "associate. "She had a financial interest in Mr. Matick's earnings as a submortgage broker.

STATUTORY INTERPRETATION

[13] The modern principle of statutory interpretation is that stated by E.A. Driedger in *The Construction of Statutes*, 2nd ed., (Toronto: Butterworths, 1983) at 87, and adopted by Estey J. in ***Stubart Investments Ltd. v. The Queen***, [1984] 1 S.C.R. 536 (at 578):

> … the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

[14] Similarly, in ***R. v. Sharpe***, [2001] 1 S.C.R. 45 at para. 33, 194 D.L.R. (4th) 1, McLachlin C.J. stated:

> Much has been written about the interpretation of legislation (see, e.g. R. Sullivan, *Statutory Interpretation* (1997): R. Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994); P.-A. Côté, *The Interpretation of Legislation in Canada* (3rd ed. 2000)). However, E.A. Driedger in *Construction of Statutes* (2nd ed. 1983) best captures the approach upon which I prefer to rely. He recognizes that statutory interpretation cannot be founded on the wording of the legislation alone. At p. 87, Driedger states: "Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

[15] However, the contextual approach does not legitimize reaching for meanings plainly not provided in the statute. This was emphasised By Binnie J. in ***Montreal (City) v. 2952 – 1366 Quebec Inc.,*** [2005] 3 SCR 141. 2005 SCC 62. The majority in that case agreed at para. 14, that ultimately the Court must consider "the wording of the provision …together with its purpose and its context, as is required by the established principles of statutory interpretation". For context, the majority looked to the legislative history, the purpose and the wording of the bylaw itself: see ***Montreal,*** *supra,* at paras. 17-18, 23 and 27.

[16] Binnie, J., in dissent, noted at paras. 110-11:

> I accept, of course, the principles of "contextual" interpretation of statutes and by-laws laid down in our cases and in part referred to by my colleagues. Our disagreement is about the *application* of those interpretive principles. In my view, with respect, my colleagues resort to a combination of reading expressions "up", reading expressions what a court is authorized to do by way of interpretation and amounts to impermissible judicial amendment. Such radical surgery is sometimes done as a matter of constitutional *remedy* in a proper

> case, but here it is not being done as a remedy after finding a *Charter* breach. It is being imposed at the prior stage of interpretation, when the Court's mandate is simply to ascertain the intention of the legislators, not to remedy wrongs.
>
> The Court was quite right in recent years to have adopted a contextual approach (as opposed to a purely literal approach) to statutory interpretation, but that does not mean that after proper application of a contextual approach the Court cannot conclude that in fact the legislators meant what they said. As noted in *Attorney General of Quebec v. Carrières Ste-Thérèse Ltée*, [1985] 1 S.C.R. 831, it is sometimes stated, when a court considers the grammatical and ordinary sense of a provision, that "[t]he legislator does not speak in vain" (p. 838). See also *Bell ExpressVu Limited Partnership v. Rex*, [2002] 2 S.C.R. 559, 2002 SCC 42, at para. 37.

STANDARD OF JUDICIAL REVIEW

[17] The standard of judicial review prescribed by the ***Administrative Tribunals Act***, S.B.C. 2004, c. 45, does not apply in this case. Section 242.1(7) - 15 - of the ***Financial Institutions Act,*** R.S.B.C. 141, precludes its application because of the privative clause in place. The standard must be determined having regard to the common-law's "pragmatic and functional" approach articulated in ***Pushpanathan v. Canada (Minister of Citizenship & Immigration),*** [1998] 1 S.C.R. 982, 160 D.L.R. (4th) 193. See also ***Pugliese v. British Columbia (Registrar of Mortgage Brokers, Financial Services Tribunal),*** 2007 BCSC 391 at para. 19.

[18] There are three levels of review. The first, the correctness standard, is the least deferential standard of judicial review. It is described by the court in ***Law Society of New Brunswick v. Ryan,*** [2003] 1 S.C.R. 247, 2003 SCC 20 at para. 50:

> When undertaking a correctness review, the court may undertake its

own reasoning process to arrive at the result it judges correct.

[19] Then there is the reasonableness standard. It requires the Court not to interfere with the administrative tribunal's decision unless the decision is unreasonable in that the reasons do not adequately support the decision. There must be no "line of analysis" in the decision being reviewed which could reasonably lead to the decision arrived at. Here, deference connotes respectful attention, although not a submission, to the decision under review: ***Ryan****, supra,* at paras. 49-51, 55.

[20] The third level, the patently unreasonable standard of review, is the most deferential standard. It requires the Court to seek to identify in the decision under review an immediate and obvious defect, that is, one that is clearly irrational or evidently not with reason. A patently unreasonable decision has been said to be one which is so flawed that no amount of curial deference can justify letting it stand: ***Ryan,*** *supra,* at para. 52.

[21] In determining the appropriate standard of review, the factors to be considered include (see ***Pushpanathan***, *supra*):

a. the presence or absence of a privative clause or statutory right of appeal;

b. the expertise of the decision-maker relative to the court on the issue in question;

c. the purpose of the Act as a whole and the particular provision; and

d. the nature of the problem.

[22] The ***Financial Institutions Act****'s* privative clause is a strong one. It provides as follows:

> 242.3(1) In respect of this Act or any other Act that confers jurisdiction on the Tribunal, the Tribunal has exclusive jurisdiction to
>
> > (a) inquire into, hear and determine all those matters and questions of fact and law arising or requiring determination, and
> >
> > (b) make any order permitted to be made.
>
> (2) A decision of the Tribunal on a matter in respect of which the Tribunal has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

EXPERTISE

[23] The Supreme Court of Canada has often found that administrative decision-makers who regulate economic industries have better expertise relative to the courts: see ***Pezim v. British Columbia (Superintendent of Brokers)***, [1994] 2 S.C.R. 557, 114 D.L.R. (4th) 385, ***Canada (Director of Investigation and Research, Competition Act)v. Southam Inc.,*** [1997] 1 S.C.R. 748, 144 D.L.R. 4th)1

[24] The ***Financial Institutions Act*** provides the Tribunal with broad powers for investigations, hearings and orders, and an overall scheme to regulate credit unions, insurance companies and others. The intent of the legislature was to create a tribunal with general expertise in its area of decision-making: ***Pushpanathan,*** *supra,* at para. 26. The Tribunal has the power to confirm, reverse or vary a decision under appeal, or may send the matter back for reconsideration, with or without directions,

to the person or body whose decision

[25] The Tribunal also hears appeals under commercial legislation, such as the ***Real Estate Services Act***, R.S.B.C .1996, c. 42 (see s. 53), the ***Pension Benefits Standards Act,*** R.S.B.C. 1996, c. 352 (see definition of "Tribunal" in s. 1 and s. 21), and the ***Real Estate Development and Marketing Act,*** S.B.C. 2004, c. 41, s. 37. is under appeal.

In ***Southam***, *supra,* at para. 48 the Court stated that the "aims of the [***Competition*** Act, R.S.C. 1985, c. C-34] are more "economic" than they are strictly "legal" because its broad goals "are matters that business woman and men and economists are better able to understand than is a typical judge".

[26] The Supreme Court has held that making an evaluation of relative expertise has three dimensions: a) the court must characterize the expertise of the Tribunal in question; b) it must consider its own expertise relative to that of the Tribunal; and c) it must identify the nature of the specific issue before the administrative decision-maker relative to this expertise: ***Pushpanathan,*** *supra,* at para. 33.

[27] However, the fact that an administrative tribunal has specialized knowledge of matters does not mean that the same high degree of deference is necessarily due on every decision. The key question is whether the proper interpretation of the statutory language requires special expertise, or primarily the application of ordinary legal principles falling within the sphere of judicial competence. ***Pushpanathan,*** *supra****,*** at pp. 37-38 and***,*** 43, and ***Barrie Public Utilities v. Canadian Cable Television Association*** [2003] 1 S.C.R. 476, 2003 SCC 28.

POLYCENTRICITY

[28] The term “polycentricity" refers to the interlocking and interacting interests, which may be at work in an administrative tribunal environment, as opposed to judicial process based on an adversarial model. The Registrar’s argument is that the ***Act*** and the ***Financial Institutions Act*** are conceived not primarily to establish rights or entitlements, but rather to balance among the different interests and protect the public confidence in the mortgage broker industry.

[29] When legal principles are vague, open-textured, or involve a “multi-factored balancing test”, this may also militate in favour of a lower standard of review, or greater deference ***Southam,*** *supra,* at para. 44. For example, provisions that require the decision-maker to “have regard to all such circumstances as it considers relevant” or confer a broad discretionary power upon a decision-maker will generally suggest policy-laden purposes and consequently, a less searching standard of review: ***Dr. Q. v. College of Physicians and Surgeons of British Columbia***, [2003] 1 S.C.R. 226, 2003 SCC 19 at para. 31. In ***Pushpanathan***, *supra,* at para. 36, the court stated:

> Where the purposes of the statute and of the decision-maker are conceived not primarily in terms of establishing rights as between parties, or as entitlements, but rather as a delicate balancing between different constituencies, then the appropriateness of court supervision diminishes:

Also of significance is whether an administrative decision-maker plays a “protective role” vis-à-vis the public, and whether it plays a role in policy development: ***Pezim*** *supra,* at para. 68. The ***Act*** has as its primary role the

protection of the public and maintenance of public confidence in the mortgage industry: see: ***Cooper v. Hobart***, [2003] 3 S.C.R. 537; 2001 SCC 79 at para. 49. The disclosure of potential interests in a financial transaction is clearly a requirement.

THE ACT SECTION 17.3

[30] The Registrar argues that where a mortgage broker such as Mortgage Intelligence is a company, not a natural person, it cannot have a spouse so that if Mr. Matick's arguments were accepted, the notice requirements for associates would never have any application, and no protection would exist where clearly it was intended to exist. It is illogical and inconsistent, the Registrar says, that the ***Act*** and regulations would require full disclosure by a mortgage broker but not a submortgage broker. The argument has merit and could prevail were it not for other factors.

[31] Firstly, s. 17.1 is not the only section of the ***Act*** which distinguishes the two offices. There are several others. Counsel for Mr. Matick identified no fewer than fourteen of them in the ***Act*** plus ten more in the *Regulations.* The words "submortgage broker" are identified separately in three sections of the ***Act*** and in eight sections of the *Regulations.* Mortgage brokers have different obligations, eg, to keep the Registrar informed of the "submortgage brokers" employed by them, and to provide the documents required by the *Act* to be provided to members of the public (in Sections 14.1, 17.1, 17.2, 17.3, 17.4 and 17.5). To provide for use of either or

both of “mortgage broker” and “submortgage broker” suggests an intention to differentiate the two, in the submission of Mr. Matick , and the effect of the Tribunal’s section 17.3 decision is to disregard this legislative intention.

[32] Secondly, one must take into account other provisions in the ***Act*** that make up in part for the loophole (so-called) in s. 17.3. For instance there is the catchall power in s. 8(1)(e). by which the Registrar has may impose an administrative penalty or may suspend or cancel a submortgage broker’s registration in the event that the submortgage broker “has conducted or is conducting business in a manner that is likewise prejudicial to the public interest”: With that in mind, Mr. Matick submits, the ***Act*** is not incoherent or inconsistent.

[33] Also, a breach of Section 17.3 may constitute an offence punishable by imprisonment: see s. 22 of the ***Act***. This would indicate less deference, and a lesser likelihood that the Legislature would intend Section 17.3 to apply to a “submortgage broker” without saying so expressly.

[34] Taking into account the submissions from both sides, I am satisfied that the standard of review is correctness. Expertise is not required to interpret the words “mortgage broker” and “submortgage broker” and it is a question of law.

[35] As for the correct interpretation of the words, there is a difference of intention expressed as between them on a plain reading of s.17.3. The section provides for a mortgage broker but not a submortgage broker to disclose its associates. In my view, the legislature despite the seeming inconsistency has definitely placed the legal disclosure requirement in s. 17.3 only upon mortgage brokers and not upon

submortgage brokers. It is not a gap to be filled under the power of the Registrar.

[36] I find that s. 17.3 of the ***Act*** does not apply to a "submortgage broker". The Tribunal's ruling of a breach of s. 17.3 is quashed.

BREACH OF SECTION 8(1)(e) OF ACT

[37] The Registrar decided that Mr. Matick "conducted business in a manner prejudicial to the public interest "for having taken possession of the information in question contrary to s. 8(1)(e) of the ***Act.*** The Tribunal disagreed and overturned the decision.

[38] A decision on this issue is very much more a matter tied to the policy of the ***Act*** and calls for more specialized knowledge. A court is not a specialized body in this specific context, and judges do not necessarily have the same experience in these policy questions. This suggests that a higher degree of deference is due to the Tribunal: ***Cooper,*** *supra,* at para. 49; ***Pezim,*** *supra,* at paras. 71, 72 and 104; ***Pugliese,*** *supra,* at paras. 22 to 23.

[39] Whether conduct is prejudicial to the public interest, a question of mixed fact and law, also suggests a high standard of deference: (***Ryan,*** *supra,* at para. 41; ***Dr. Q.,*** *supra,* at para. 34).

[40] I would, therefore, apply a standard of patent unreasonableness requiring the court to identify some immediate and obvious defect in the decision, one that is clearly not rational or evidently without reason.

[41] The Tribunal was not patently unreasonable when it determined that it was appropriate to disregard the conduct and/or mindset of persons other than Mr. Matick. The documents in question were faxed to Mr. Matick at his office by an employee of TD Canada Trust. Mr. Matick's conduct was not voluntary or negligent or anything more than passive receipt of a faxed transmission. No notice was delivered to Mr. Matick informing him that sanctions pursuant to an alleged breach of s. 8(1)(e) were being sought, contrary to prior practice.

[42] It was never suggested that Mr. Matick's accidental possession of personal information was, in any way, illegal. Mr. Matick did not breach any statutory law (e.g. the ***Privacy Act***, R.S.B.C. 1996, c. 373), or common-law principles regarding invasion of privacy or an implied agreement of confidentiality. Finally, there was no evidence that in these circumstances the mere receipt of the faxes, without more, is "prejudicial to the public interest".

[43] As for the Registrar's decision that Mr. Matick violated s. 8(1)(e) of the ***Act,*** upon review, the Tribunal's decision to overturn the Registrar is upheld.

THE PENALTY

[44] The Tribunal's decision to substitute a reprimand for a fine was a question of mixed fact and law suggesting a lower standard of review and in my view, a standard of patent unreasonableness.

[45] The Registrar submits that the Tribunal's power to impose penalties is limited. No specific power is expressly authorized in the Act. However, there is clearly

jurisdiction to "confirm, reverse or vary" a penalty decision of the Registrar pursuant to Section 242.2(11) of the ***Financial Institutions Act*****.** There is no limitation in the ***Financial Institutions Act*** *of* the Tribunal's power to "vary" or upon its discretionary power of sanction under s. 8 to suspend or cancel a person's registration.

[46] A reprimand" is merely the natural consequence of the Tribunal having the power to declare a breach of the ***Act*** with no attached penalty. The jurisdiction to order a reprimand may be fairly implied from the statute in order to give effect to s. 8 and to the purposes of the ***Act***. See ***Interpretation Act***, R.S.B.C. 1996, c. 238, s. 27(2); and ***Bell Canada v. Canada (Canadian Radio-Television and Telecommunications Commission),*** [1989] 1 S.C.R. 1722, at paras. 50 and 51, 60 D.L.R. (4th) 682.

[47] The Tribunal's power to reverse a penalty is amply supported in these circumstances, and in my view it's exercise is justified. The decision was not patently unreasonable or even unreasonable. There was no breach of s. 8(1)(e); The section does not refer to "submortgage brokers. No Bulletins or clarifications were issued in respect of Section 17.3. There is no evidence that Mr. Matick knowingly disregarded his obligations. There is no rational connection between the educational requirement imposed by the Registrar and the impugned conduct. Finally, there is no evidence that any public interest has been harmed.

[48] The Tribunal's substitution of a reprimand for a fine is, therefore, upheld.

"The Honourable Mr. Justice Rice"

August 14, 2007 – ***Revised Judgment***

Corrigendum to the Reasons for Judgment issued advising that paragraphs [1], [43], and [48] are replaced.

> [1] This is an application pursuant to Rule 10 and the ***Judicial Review Procedure Act*** R.S.B.C. 1996, c. 241, for review of a decision of the Financial Services Tribunal made October 13, 2006. The Tribunal's decision was, in turn, on an appeal of a decision made June 1, 2006 by the Registrar of Mortgage Brokers.
>
> [43]. As for the Registrar's decision that Mr. Matick violated s. 8(1)(e) of the ***Act,*** upon review, the Tribunal's decision to overturn the Registrar is upheld.
>
> [48] The Tribunal's substitution of a reprimand for a fine is, therefore, upheld.

Ms. Angela Westmacott has been added in the style of cause as counsel for the Financial Services Tribunal.

August 23, 2007 – ***Revised Judgment***

Corrigendum to the Reasons for Judgment issued advising that Paragraph [29] should be replaced in its entirety and should now read as follows:

> [29] When legal principles are vague, open-textured, or involve a "multi-factored balancing test", this may also militate in favour of a lower standard of review, or greater deference ***Southam,*** *supra,* at para. 44. For example, provisions that require the decision-maker to "have regard to all such circumstances as it considers relevant" or confer a broad discretionary power upon a decision-maker will generally suggest policy-laden purposes and consequently, a less searching standard of review: ***Dr. Q. v. College of Physicians and Surgeons of British Columbia***, [2003] 1 S.C.R. 226, 2003 SCC 19 at para. 31. In ***Pushpanathan***, *supra,* at para. 36, the court stated:
>
> > Where the purposes of the statute and of the decision-maker are conceived not primarily in terms of establishing rights as between parties, or as entitlements, but rather as a delicate balancing between different constituencies, then the appropriateness of court supervision diminishes.
>
> Also of significance is whether an administrative decision-maker plays a "protective role" vis-à-vis the public, and whether it plays a role in

policy development: ***Pezim*** *supra,* at para. 68.The ***Act*** has as its primary role the protection of the public and maintenance of public confidence in the mortgage industry: see: ***Cooper v. Hobart***, [2003] 3 S.C.R. 537; 2001 SCC 79 at para. 49. The disclosure of potential interests in a financial transaction is clearly a requirement.