

**DECISION NO. 2015-RSA-001(a)**

In the Matter of an appeal under the *Real Estate Services Act*, S.B.C. 2004, c. 42

<b>BETWEEN:</b>	Superintendent of Real Estate	<b>APPELLANT</b>
<b>AND:</b>	Real Estate Council of British Columbia	<b>RESPONDENT</b>
<b>AND:</b>	Richard Thomas Valouche	<b>RESPONDENT</b>
<b>BEFORE:</b>	Patrick Lewis, Panel Chair	
<b>DATE:</b>	Conducted by way of written submissions concluding on April 9, 2015	

**PRELIMINARY DECISION ON REQUEST FOR LEAVE  
TO AMEND NOTICE OF APPEAL**

1. By letter of March 25, 2015 to the Financial Services Tribunal ("FST") and copied to the Respondents, the Appellant, Superintendent of Real Estate ("Superintendent"), sought confirmation as to whether two documents ("the documents") included in the Record of Decision compiled by the Respondent, Real Estate Council of British Columbia ("Council"), were indeed part of that Record. The Superintendent went on to state that, in the event the documents were indeed part of the Record, it wished to amend its Notice of Appeal by adding a paragraph asserting that Council erred in law by relying on the documents in reaching its decision.

2. By letter of April 9, 2015 to the FST, Council expressed the position that the documents formed a necessary and proper part of the Record, and that the Appellant's application for leave to amend the Notice of Appeal should be refused as being legally and factually without merit.

3. I am advised that the Respondent, Richard Thomas Valouche, did not reply to the Superintendent's March 25, 2015 letter.

4. There is no controversy as to whether the documents should be included within the Record, and I will therefore proceed on the basis that they are so included. The controversy is over whether their inclusion gives rise to a right in the Superintendent to amend its Notice of Appeal as sought.

5. Without considering at all at this stage the merit of the potential additional appeal argument, it is apparent that whether to permit the argument to be made could prove important on – possibly even determinative of – this appeal. Other than asserting that the proposed amendment lacks merit, Council has made no submission on the point, though it has offered to provide the FST on request with a letter sent to the Superintendent in which, presumably, its position is more fully set out. Rather than requesting a copy of that letter I will give the parties the opportunity to make further submissions as follows:

By each of the Respondents: to be delivered to the FST, the Superintendent and the other Respondent by May 8, 2015, and not to exceed five pages.

By the Superintendent: any reply to be delivered to the FST and the Respondents by May 22, 2015, and not to exceed five pages.

6. I note that I have chosen those timelines to fit with vacation schedules of counsel for the parties, of which I have been advised.

7. I will then render a decision on the application and a schedule will be set for the delivery of submissions on the appeal.

“ Patrick Lewis”

Patrick F. Lewis, Panel Chair  
Financial Services Tribunal

April 22, 2015