



# FINANCIAL SERVICES TRIBUNAL

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## **DECISION NO. 2015-RSA-002(a)**

In the matter of an appeal pursuant to section 54 of the *Real Estate Services Act* S.B.C. 2004, c. 42 to the Financial Services Tribunal under section 242.2 of the *Financial Institutions Act*, R.S.B.C. 1996, c. 141

**BETWEEN:** James Sydney Parsons

**APPELLANT**

**AND:** Real Estate Council Of British Columbia  
Superintendent Of Real Estate

**RESPONDENTS**

**BEFORE:** Patrick F. Lewis, Vice-Chair

**DATE:** Conducted by way of written submissions  
concluding on May 26, 2015

### **PRELIMINARY DECISION ON APPLICATION FOR EXTENSION OF TIME TO FILE SUBMISSIONS**

[1] This is an application by the Appellant, James Sydney Parsons, who I will refer to as the Appellant or Mr. Parsons, for an extension of time to file a written submission on this appeal.

[2] As set out in paragraph 3.11 of the Financial Services Tribunal, Practice Directives and Guidelines ("the Guidelines"), an appellant's written submission must be filed within twenty one days of his receipt of the Record from the proceeding below. I understand that in this case, and as set out in a letter from the Financial Services Tribunal ("FST") to the Appellant of May 21, 2015, that twenty one day period ends on June 11, 2015. Paragraph 3.11 of the Guidelines also enables an appellant (or other party) to seek an extension of time to file a written submission, in which event the request must be made to the FST in writing prior to the expiry of the prescribed time limit.

[3] Counsel for the Appellant replied to that FST letter the following day, May 22, 2015, advising that he had been retained to act for Mr. Parsons and requesting an extension of time to July 30, 2015, to file a written submission. In reply, the Superintendent of Real Estate (a party to this appeal by virtue of section 54(3) of the *Real Estate Services Act*, SBC 2004, c. 42 ["RESA"]), has expressed that it takes no position on the application, and the Real Estate Council of British Columbia

("Council") has advised the FST that it consents to an extension of time, but only to June 30, 2015.

[4] In the proceeding below, Council rendered a decision on December 12, 2014, that Mr. Parsons, a licensee under *RESA*, had committed professional misconduct in several respects. Following subsequent written submissions on penalty, Council rendered a decision on April 27, 2015, cancelling Mr. Parsons' licence, effective immediately, and stipulating that he may not apply for re-licencing for five years and until certain discipline penalty and enforcement expenses as specified were paid.

[5] As I understand it, Mr. Parsons was not represented by counsel below and while still unrepresented filed a Notice of Appeal with the FST on or about April 28, 2015. He then retained counsel, prompting the letter of May 22, 2015, requesting an extension of time in connection with the written submission to follow.

[6] Counsel for Mr. Parsons submit that the Record in this matter is substantial, featuring a significant number of findings against their client which require thorough investigation before a submission can be made. They also state that the Notice of Appeal, filed in haste by Mr. Parsons, would likely need amendment, and that the requested extension of time is appropriate given the need for Mr. Parsons to properly retain and instruct counsel and provide them with a reasonable opportunity to review the Record and prepare the necessary submission.

[7] Opposing the length of extension sought, Council refers to a limited scope of review available to the FST and the interests of this tribunal in a just and timely resolution of appeals. It argues that any extension beyond June 30, 2015, is excessive.

[8] Council is of course correct in referencing the objective of a just and timely resolution of appeals; indeed, this is set out in the very first of the Guidelines. With that objective in mind the FST must be careful not to lightly grant extensions of time, and further to ensure that the length of any extension granted is reasonable. Neither counsel here has referred to the test to be applied on an application such as this, but in the absence of such submissions I consider the interests of justice to be the applicable metric. Related to that consideration, I note that pursuant to section 55(2) of *RESA*, a decision such as the one made by Council in this case is automatically stayed on the filing of a Notice of Appeal. While the parties have not mentioned this in the context of this application for an extension of time, I take this to mean that given the appeal proceeding the decision below is not currently operative. While section 55(2) goes on to provide that a member of the appellate tribunal can lift the stay under section 242.2(10)(a) of the *Financial Institutions Act*, that provision requires the making of an application, which has not occurred, at least yet. I say all of this in the vein of emphasizing that appeals before this tribunal, and perhaps particularly those where a stay results from the filing of an appeal, must be expeditiously managed.

[9] At the same time I do have some sympathy for the request made here, bearing in mind that:

- (a) counsel for Mr. Parsons has only very recently been retained and has no history in this matter. The Record of proceedings, together with submissions and authorities, is indeed rather voluminous, comprising several substantial volumes, and it is plain to see that the task involved in preparing a proper appeal submission, particularly for new counsel, will be significant and time-consuming; and
- (b) this is a serious matter, for all concerned, and it can readily be understood why the Appellant would desire time for a careful submission to be made on his behalf.

[10] Balancing the above interests and considerations, I am prepared to permit the Appellant until July 15, 2015, to file his written submission, and I so order.

[11] I make the following further comments.

[12] First, as stated, counsel for Mr. Parsons referred to a likely need to amend the Notice of Appeal. I do not know whether such an application will be made, and if so whether it will be allowed, and I have therefore not granted the requested extension of time at all because of that prospect. But I do say that if such an application is to be brought as a precursor to the preparation of an appeal submission due by July 15<sup>th</sup>, it will need to be brought quickly.

[13] Second, I note that in counsel's letter to the FST of May 22, 2015, it is first stated that they "have been retained" by Mr. Parsons, with references then made to Mr. Parsons as their client, but that the penultimate paragraph refers to an extension of time being appropriate in order to give Mr. Parsons the opportunity (among other things) "... to properly retain and instruct us ...". It is not clear whether this indicates that at that date the firm had not yet been properly retained by Mr. Parsons, but in any case I point out that the extension of time I am hereby granting will apply regardless of representation, and no further extension should be expected.

"Patrick Lewis"

Patrick F. Lewis  
Vice-Chair  
Financial Services Tribunal

May 29, 2015