



FINANCIAL SERVICES TRIBUNAL

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February 22, 2017
Via Email

Appeal File: 2015-RSA-003

Murat Kadioglu

Real Estate Council of British Columbia
Suite 900 - 750 West Pender Street
Vancouver BC V6C 2T8

Attention: Jessica S. Gossen, Legal Counsel

Ministry of Justice
Legal Services Branch
1301 865 Hornby Street
Vancouver BC V6Z 2G3

Attention: Sandra Wilkinson

**Re: Appeal to the Financial Services Tribunal (“FST”) -
Murat Kadioglu v. The Real Estate Council of British Columbia (“Council”) and
The Superintendent of Real Estate (“Superintendent”)**

On February 14, 2017, I received a submission from the Appellant, Mr. Kadioglu, seeking an order staying the Real Estate Council’s enforcement of the Tribunal’s February 1, 2017 decision, for a reasonable time following the issuance of the Tribunal’s decision on costs, which is yet to be rendered.

I received submissions in response from the Council and the Superintendent of Real Estate on February 20, 2017. Both the Council and the Superintendent submit that the Tribunal does not have jurisdiction to revisit the penalties awarded in my February 1, 2017 decision, including to issue a stay of the enforcement of those penalties.

On February 21, 2017, I received response submissions from the Appellant, wherein he states that until the costs decision is rendered, the decision is not complete. I understand his submission to be that until the costs decision is rendered, the previous decision is somehow in operative and that the whole decision, both the February 1, 2017 decision and the costs decision when it is rendered, will become effective only on the date the costs decision is rendered. He submits that the Tribunal already ordered a stay of the decision under appeal until the Tribunal decision was rendered. Therefore, because the Tribunal’s decision is not final, in his submission, the previous stay remains in effect.

I reject the submissions of the Appellant. The February 1, 2017 decision is effective as of the date it was rendered. The penalties set out in the February 1, 2017 are not contingent on the eventual costs decision. The stay of the decision under appeal was expressly lifted on February 1, 2017 in the Tribunal’s decision, para. 93, which states:

“The stay of the Penalty Decision which issued pursuant to s. 55(2) of the *RESA* is now lifted.”

While the Tribunal has jurisdiction to stay a decision under appeal to it, the Tribunal does not have jurisdiction to stay its own decision.

Therefore, I decline to make the order requested by the Appellant. The penalties ordered on February 1, 2017 remain in effect.

Yours truly,

“Wendy A. Baker”

Wendy A. Baker, QC, Panel Chair
Financial Services Tribunal