



# Financial Services Tribunal

Fourth Floor, 747 Fort Street  
Victoria BC V8W 3E9  
Telephone: (250) 387-3464  
Facsimile: (250) 356-9923

**Mailing Address:**  
PO Box 9425 Stn Prov Govt  
Victoria BC V8W 9V1

Website: [www.fst.gov.bc.ca](http://www.fst.gov.bc.ca)  
Email:  
[financialservicestribunal@gov.bc.ca](mailto:financialservicestribunal@gov.bc.ca)

June 15, 2018

Appeal Files: 2018-RSA-002; 2018-RSA-003;  
**2018-RSA-G01**

**Re: Appeal to the Financial Services Tribunal (“FST”) – Shahin Behroyan v. Real Estate Council of British Columbia; and Superintendent of Real Estate v. Real Estate Council of British Columbia**

## **A) Joining the Appeals**

The FST is in receipt of correspondence from the parties regarding the proposed joining of the above-noted two appeals.

The parties are in agreement that the appeals should be joined and heard together. Further, the Superintendent of Real Estate has suggested that the hearing of these matters be bifurcated to allow for the appeal on the merits to be decided prior to the consideration of penalty. Both the Real Estate Council and Mr. Behroyan are agreeable to this proposal.

As such, the above-noted two appeals, namely *Shahin Behroyan v. Real Estate Council of British Columbia* 2018-RSA-002, and *Superintendent of Real Estate v. Real Estate Council of British Columbia* 2018-RSA-003, will be joined, and going forward, will be referred to as: *Shahin Behroyan and the Superintendent of Real Estate v. Real Estate Council of British Columbia*, **Group File No. 2018-RSA-G01**.

Further, the FST considers the Superintendent’s proposal that the hearing be bifurcated as described above is reasonable and will facilitate an efficient appeal process. Therefore, the hearing of these appeals will be bifurcated such that Mr. Behroyan’s appeal of the RECBC merits decision will be considered prior to Mr. Behroyan and the Superintendent of Real Estate’s Appeal of the RECBC penalty decision.

For clarity, the parties in each part of the hearing of these appeals will be as follows:

### Merits:

- Mr. Behroyan – Appellant
- RECBC – Respondent
- Superintendent of Real Estate – Additional Respondent

### Penalty:

- Mr. Behroyan – Appellant (with fulsome right of reply to other Appellant’s submissions)
- Superintendent of Real Estate – Appellant (with fulsome right of reply to other Appellant’s submissions)

- RECBC – Respondent

The appeals will now proceed and will be heard together by a single member of the FST.

As the FST is now in receipt of the Appeal Record, the next step in the process is for the FST to serve the Record to the other parties, and request written submissions from the parties on the RECBC merits decision. As such, please find enclosed a copy of the record in the above noted appeal, and see below for an outline of the schedule for provision of written submissions.

## **B) Appeal Record**

If any party has concerns regarding the integrity or completeness of the record, please advise the FST pursuant to section 3.10 of the FST Practice Directives and Guidelines, which state in part as follows:

*Any party to an appeal may raise concerns regarding the integrity or completeness of the record. Expressions of concern regarding the integrity of the record should be filed with the FST **within the 21 day period** required for the filing of the appellant's first submissions.*

Regarding the integrity or completeness of the record, please note that section 242.2 (6) of the *Financial Institutions Act* provides information on the content of the record.

## **C) Written Submissions on the Merits**

Under section 242.2(5) of the *Financial Institutions Act*, appeals to the FST are appeals 'on the record', and must be based on written submissions. However, if a party makes a written application under section 242.2(8), the member considering the appeal may permit oral submissions, or the introduction of new evidence not included in the record.

Although section 3.11 of the FST Practice Directives and Guidelines sets out the filing requirements for the parties' written submissions, in order to streamline the submission process for these appeals, the FST has established the following schedule for the **filing and exchange** of the parties' submissions on the merits:

- The Appellant, Mr. Behroyan, will file his written submissions with the FST office (two copies) and serve both Respondents (one copy each) by no later than **4:30 PM, July 6, 2018**.
- The Respondents will provide their written responses to the Appellant's submissions by no later than **4:30 PM, July 27, 2018**. These submissions are to be filed with the FST office (two copies) and served to the Appellant and to the other Respondent (one copy each).
- The Appellant may file a final reply which addresses the submissions of each of the Respondents by no later than **4:30 PM, August 10, 2018**. This reply is to be filed with the FST office (two copies) and served to the Respondents (one copy each).

The written submissions of each party must fully set out the party's position and arguments on the appeal. The submissions must also include specific reference to the evidence (contained in the record or such other new evidence as may be allowed by the member) that supports each

party's argument. Written submissions must also include reference to, and copies of, any legal authorities (legislation or cases) that each party intends to rely on.

In addition to the hard copies as noted above, the FST encourages the parties to file with the Board an electronic copy of all written submissions.

If you have any questions concerning this appeal or the requested records, please contact the Tribunal's Registrar at (250) 356-5633.

Yours truly,

"Theodore F. Strocel"

Theodore F. Strocel, Q.C.  
Chair  
Financial Services Tribunal