

April 24, 2020

## POLICY STATEMENT 17 - Extension of the Early Marketing Period

In response to the COVID-19 pandemic, on April 17, 2020, the Office of the Superintendent of Real Estate (the "OSRE") announced the issuance of [Policy Statement 17](#). Policy Statement 17 provides for a temporary extension of the early marketing period for developments marketed prior to obtaining a building permit and/or a satisfactory financing commitment.

The conditions under which a developer can market a development governed by the *Real Estate Development Marketing Act* prior to obtaining a building permit and/or a satisfactory financing commitment are set out in Policy Statement 5 and Policy Statement 6, respectively. Prior to the issuance of Policy Statement 17, a developer could market such a development for a period of 9 months prior to obtaining a building permit and/or a satisfactory financing commitment, as applicable. This 9-month timeline commences on the filing date of the initial disclosure statement. If a developer does not obtain and disclose the details of a building permit and/or a satisfactory financing commitment, as applicable, prior to the expiry of the 9-month timeline, the developer must cease marketing the development. To accommodate the unforeseen circumstances that have arisen due to COVID-19, the OSRE issued Policy Statement 17, which temporarily extends the 9-month period to 12 months.

The extension applies to developments marketed under disclosure statements filed between June 17, 2019 to July 17, 2020. For disclosure statements filed between the June 17, 2019 to April 16, 2020, an amendment will need to be filed to note that the early

marketing period is being extended pursuant to Policy Statement 17. For disclosure statements filed between April 17, 2020 to July 17, 2020, the disclosure statement will need to disclose this extended early marketing period.

It is important to note all other provisions of Policy Statement 5 and Policy Statement 6 remain unchanged. Accordingly, the rescission right that arises for a purchaser if a building permit and/or a satisfactory financing commitment, as applicable, is not obtained and disclosed within 12 months from the date of filing of the disclosure statement remains unchanged.

The OSRE has indicated that it will consider, on an ongoing basis, whether COVID-19 pandemic response measures warrant any further extensions to the early marketing period provided for under Policy Statement 5 and Policy Statement 6.

If you wish to obtain further particulars regarding early marketing periods or Policy Statement 17 and its proposed implications, we recommend seeking legal advice.

by Dharam Dhillon and Ammen Bains (Articled Student)

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#### a cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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