

APRIL 30 UPDATE: AMENDMENTS TO POLICY STATEMENT 5 AND POLICY STATEMENT 6- EXTENSION OF THE EARLY MARKETING PERIOD IN RESPONSE TO COVID-19

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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, which was in effect up to and including April 30, 2021. This bulletin is an update to our previous bulletins on this topic dated [April 24, 2020](#) and [July 21, 2020](#), and details the recently announced amendment to Policy Statement 5 and Policy Statement 6 (the “**Amendment**”) made by the OSRE.

The Amendment provides for a further temporary extension of the early marketing period for developments marketed prior to obtaining a building permit and/or a satisfactory financing commitment from 9 to 12 months as of May 1, 2021.

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 has been in effect up until April 30, 2021. To further support the developers meeting the OSRE’s Policy Statements, on April 27, 2021 OSRE has issued the Amendment, which further extends the early marketing 9-month period to 12 months.

The Amendment provides for the extended early marketing period to continue after April 30, 2021. This means that a development marketed under a disclosure statement filed from May 1, 2021 onward can be marketed for a 12-month period, provided that the disclosure statement contains the applicable extended dates, pursuant to the Amendment.

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.

If you wish to obtain further particulars regarding early marketing periods or the Amendment and their proposed implications, we recommend seeking legal advice.

by [Douglas Zorrilla](#) and [Stephen Lewis](#) (Articled Student)

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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