

JULY 20 UPDATE: POLICY STATEMENT 17 - EXTENSION OF THE EARLY MARKETING PERIOD IN RESPONSE TO COVID-19

Posted on July 21, 2020

Categories: [Insights](#), [Publications](#)

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. This bulletin is an update to our [previous bulletin](#) on this topic, and details an amendment to Policy Statement 17 extending its effect until April 30, 2021.

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 initial issuance of Policy Statement 17 applied to disclosure statements filed up until July 17, 2020. On July 15, 2020, the OSRE announced an amendment to Policy Statement 17, extending its effect to April 30, 2021. This means that a development marketed under a disclosure statement filed between April 17, 2020 and April 30, 2021 can be marketed for a 12-month period, provided the disclosure statement contains the applicable extended dates, pursuant to the amended Policy Statement 17.

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 Policy Statement 17 and its proposed implications, we recommend seeking legal advice.

by Douglas Zorrilla and Ammen Bains (Articling 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.

© McMillan LLP 2020