



URBAN DEVELOPMENT INSTITUTE- OKANAGAN CHAPTER

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Attention: Steve Thomson, MLA Kelowna-Mission, Norm Letnick, MLA Kelowna-Lake Country and Ben Stewart, MLA Westside-Kelowna

Subject: Creating Certainty in the Real Estate Development Marketing Act (REDMA)

Dear Steve, Norm and Ben:

The Urban Development Institute (UDI) is a national association (with international affiliations) of the development industry and its related professions. The corporate members of the UDI - Okanagan Chapter represent hundreds of individuals involved in all facets of land development and planning, including: developers, property managers, financial lenders, lawyers, engineers, planners, architects, appraisers, real estate professionals, local governments and government agencies.

As a Partner in Community Building, the UDI is committed to working with communities and governments to create and achieve the vision of balanced, well-planned, sustainable and affordable communities.

We would like to discuss with you today an issue that has been creating uncertainty within the development industry. This uncertainty has been brought about due to a number of ambiguities and loopholes in the *Real Estate Development Marketing Act (REDMA)* that have led to some unintended consequences.

The UDI fully supports the intended purpose of the *REDMA*, which is to protect consumers from non-compliant developers and the delivery of deficient units. However, in its current form, the *REDMA* is not achieving its desired purpose and is instead being used by some purchasers as a way to rescind presale agreements that were entered into before the market had fallen.

There is a fear in the development industry that as market conditions shift over time, the *REDMA* may be further exploited in the future. This leads to uncertainty and higher risks. Financial institutions require a high level of “solid” presales before they will lend money to development projects. If there is uncertainty about the enforceability of presale contracts, they will lend less and this will slow down the industry and the economy, as well as impact housing supply and prices.

The UDI Okanagan Chapter supports the recommended regulatory amendments and changes to the Financial Institutions Commission of British Columbia (FICOM) Policy Statements put forth by UDI Pacific Region to address some of the more pressing issues concerning the *REDMA*. These recommendations are summarized below.

Proposed regulatory changes include:

- Applying applicable common laws and laws of equity when there is a rescission. The Act is silent on this issue. This has created several problems because of a recent Court decision. Purchasers can occupy a unit for several years, and then seek to rescind their purchase. If they succeed, the developer must not only repurchase the unit, but also pay interest. Further, they cannot charge occupational rent or costs for repairs and maintenance. Under this approach, purchasers are encouraged to delay or extend Court actions.
- Clarifying the definition of developer under the *REDMA* to ensure that it does not include leasehold landowners (the Province, universities, municipalities, and First Nations), which is a longstanding industry practice. If the courts expand the definition of developer to include leasehold landowners, the Disclosure Statements of tens of thousands of units could be in jeopardy.
- Providing a legal mechanism to allow deposits to be released when all parties consent.
- Allowing the release of deposits when purchasers fail to complete the terms of a purchase agreement.
- Preventing the release of deposits when there is a dispute.
- Allowing purchasers the option to review the Disclosure Statements during the 7-day rescission period, as opposed to reviewing it prior to making offers.
- Allowing purchasers to agree to receive Disclosure Statement Amendments through email.

Proposed FICOM Policy Statement changes include:

- Clarifying the confusion regarding when developers must make amendments to disclosure statements to reflect changes in construction timeframes that impact the completion of a project.
- Defining what zoning information should be provided to purchasers. Currently developers are attaching entire zoning by-laws to purchaser agreements to avoid problems.

The UDI Okanagan Chapter is committed to working with the Province to create certainty in the *REDMA*. We thank you for your time and consideration and look forward to future developments on this important issue.

Kind Regards,

URBAN DEVELOPMENT INSTITUTE

UDI Okanagan Chapter – Board of Directors