

Real Estate Council of BC Protects Consumers' Interests



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Interview Participants

Robert Fawcett,
the Council's Executive Officer

Satnam Sidhu,
the Council's Chair

In Conversation with Val Wilson

Background

The Real Estate Council is a regulatory agency established by the provincial government. The Council is responsible for protecting the interests of consumers who use the services of real estate licensees.¹

This interview took place in July in the Council's hearing room on West Pender Street in Vancouver. Robert sat beside me at the table. Satnam chose the chair usually occupied by licensees when they are called to a disciplinary hearing. It's the witness box, AKA The Hot Seat!

¹ All REALTORS® are real estate licensees but not all real estate licensees are REALTORS®.

"REALTOR®" does not signify occupation; it signifies membership in the Canadian Real Estate Association (CREA) and/or the British Columbia Real Estate Association (BCREA).

The Scrivener: Satnam, please tell us about your background.

Satnam: My educational background is in chemical metallurgy. I wanted to be a teacher, but my parents, who were immigrants, were illiterate. They weren't able to have an education in India in those days so they didn't quite value education the way people who grew up in Canada did. Back then, a lot of people had jobs that were very labour-intensive. My father worked in the BC forestry industry and made union wages, which in those days was not too bad.

I was the eldest of five and in the Indian culture, particularly when you're the oldest son, you've got a lot more responsibility to make money to help the family.

The sawmill where my father worked was closing down the year I was going to graduate from high school. We didn't hear of student loans then to help with university tuition. I was the eldest of five and in the Indian culture, particularly when you're the oldest son, you've got a lot more responsibility to make money to help the family.

PERTINENT ACRONYMS

BCREA	BC Real Estate Association
BCSC	BC Securities Commission
BCSCA	BC Shopping Centre Association
CHOA	Condominium Homeowners Association
CREA	Canadian Real Estate Association
EOIC	Errors & Omissions Insurance Corporation
FICOM	Financial Institutions Commissions
FST	Financial Services Tribunal
HPO	Home Owners Protection
IREM	Institute of Real Estate Management
PAMA	Association of Professional Residential Property Managers
RECC	Real Estate Compensation Corporation
REFBC	Real Estate Foundation of BC
REIBC	Real Estate Institute of BC
SMAG	Strata Management Advisory Group
SPA BC	Strata Property Agents of BC

I went to BCIT because it was a very short program, then I took a job I really didn't enjoy, which was working for the federal government at Environment Canada. The only good thing that happened there was that I met my wife!

LAUGHTER

The Scrivener: When did your interest in real estate begin?

Satnam: I started buying real estate at a fairly early age. By the time I was 23, I had purchased two pieces of real estate. I remember we sold a piece of property in Edmonton back in the late '70s where the agent made a \$50,000 commission. I thought *that was 50 grand. I could do that!* So I quit my job and went into real estate. That was 28 years ago, in 1979.

The Scrivener: How has real estate been for you as a career?

Satnam: Oh, it's been wonderful. When my kids were very young, I actually left sales for awhile. I took a big cut in pay and went into real estate management so I could spend more time camping or going to soccer games with my family. I didn't have to worry about showing homes on weekends or holding open houses.

For almost 10 years, I was not in sales but, when the kids got older, I went back into sales. About 9 years ago, I started selling again.

The Scrivener: With which company are you associated?

Satnam: REMAX Crest Realty in North Vancouver.

The Scrivener: We have a BC Notary in that shopping centre—at Westview.

Satnam: Yes. Ron Bailey and I first met when he was managing a real estate office located at Park Royal and I was managing a Royal LePage office in North Vancouver.

The Scrivener: Let's talk a bit about *your* background, Robert.

Robert: Well, it is very similar to Satnam's. I went to BCIT, took public administration, and thought I'd go work for the federal government. But

I didn't. An opportunity came up at the Real Estate Council and I started here in July of 1979.

At that time, my primary job responsibilities were handling complaints and subdivision prospectuses; in those days, you had to do a prospectus for the municipality if you were offering five or more lots for sale. I did that for about 3 years, then started doing audits in the early '80s. From there, I got into more of an administrative role. I took the Urban Land course at UBC and, 28 years later, here we are!

Most Council members have been in the real estate business for over 20 years.

The Scrivener: I know you also had experience in the retail market.

Robert: I'd worked at Woodward's for a number of years, at the Downtown store, as a student while going to Capilano College and BCIT and UBC. A couple of colleagues called to ask if I was watching what was happening in "retail" in the United States. "They're working till midnight and on weekends and Sundays!" That convinced me that if I ever wanted a family and a life, perhaps a more 9-to-5 career would be appropriate.

The Scrivener: It's so nice that you both had the same concern for creating time for your families.

Robert: We both have two kids . . .

Satnam: Yes, a boy and a girl. You've been married how many years now?

Robert: Twenty-two!

Satnam: My wife and I just celebrated our 29th wedding anniversary!

The Scrivener: That's wonderful! Congratulations!!! Robert, is it challenging to find people to run for positions on the Real Estate Council?

Robert: No. There is a tradition of service in the real estate industry. Satnam is quite typical of the individuals who serve on our Council. He has served the public through

his involvement with the Real Estate Board of Greater Vancouver as President and as President of the Canadian Real Estate Association (CREA) in 1989—and he is going into his eighth year on Council.

Most Council members have been in the real estate business for over 20 years. They've been presidents of real estate boards or associations or BCREA [British Columbia Real Estate Association] and are very involved with organized real estate. Quite often, after they've served on Council, they continue to serve—on the Real Estate Errors & Omissions Insurance Corporation or the Real Estate Compensation Fund Corporation or the Real Estate Foundation.

Satnam: Robert is absolutely right. I remember when I came on Council, I had been in the business for 20 years and most of the Council members had been in the business for 30 years or longer.

The Scrivener: When was the Real Estate Council formed?

Robert: Council was formed in 1958. Next year we'll be celebrating our 50th anniversary. Satnam will be Chair for part of that time frame.

I am the third Secretary/Executive Officer. The first was Irwin Davis, then came my former boss Dermot Murphy, who was Secretary of the Council from 1964 to 1995. I have been in this position since 1995.

We've gone through a number of changes over those years. Successive provincial governments have delegated more and more responsibility to the Council. For example, we used to hold hearings and make recommendations as to the appropriate penalty. It was the Superintendent of Real Estate, however, who made the ultimate decision and would either agree or disagree. That was prior to 1986.

In '86 we were given permission to make our own decisions, which the Superintendent had the right to appeal. In '91 we took over responsibility for the filing of Accountant's Reports that are submitted with respect to brokerages' trust accounts by outside CAs or CGAs.

The Scrivener: What was the structure of the old *Real Estate Act*?

Robert: It was divided into two parts. Part One dealt with licensing and other matters and Part Two with subdivisions.

In 2005, Part One in a sense became the skeleton for the *Real Estate Services Act* and Part Two became the *Real Estate Development Marketing Act*. The Superintendent's Office is responsible for that statute, as well as unlicensed activity under the *Real Estate Services Act*.

We have a lot of interaction with the Superintendent with respect to complaints and investigations. For example, if we have a hearing and the Superintendent objects to the outcome, he has the right to appeal the decision to the Financial Services Tribunal. From time to time, he does appeal the Council's decision, but that's infrequent. He may be concerned that the situation merited a longer penalty.

In 2005, the Council became an SRO—a self-regulating organization and the new *Real Estate Services Act* gave us rule-making ability. That was a very big step forward.

Quite often, instead of going through a hearing process, it is agreed to go by way of Consent Order, which may involve a reprimand, suspension, or cancellation. There may also be hearing and administrative costs involved. A fine may also be imposed.

It is important to note that when criminal activity is involved, we refer the matter to the Superintendent's Office in keeping with an established protocol agreement with them. The Superintendent's Office has an investigative department that will assist the Council.

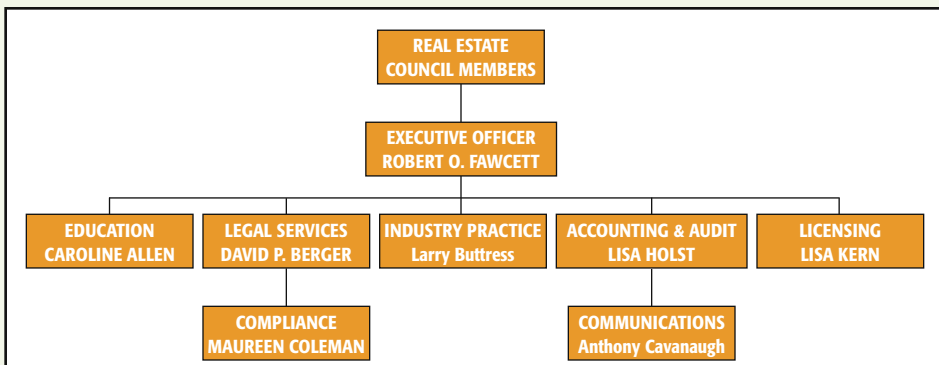
The Scrivener: I understand strata managers must be licensed under the new Act.

Robert: Yes. In January of 2006, we started to license strata managers in the province, which is a very large undertaking because a number of firms and individuals involved in strata

management were not previously licensed. Now strata managers must pass a licensing course and file an annual Accountant's Report.

The Scrivener: How does that process benefit the people of British Columbia?

Robert: We're endeavouring to create a level playing field that includes a minimum level of education required under our new licensing and education program for strata managers.



Satnam: That will provide more consumer protection.

Robert: And accountability for trust funds.

Satnam: In the past, we could not discipline strata property managers. They were not licensed, so we could not scrutinize their conduct or the way they were handling the business. Now, under the *Real Estate Services Act*, we have the power and the authority to look at what they've done and what they should perhaps *not* have done.

Robert: In fact, since January 2006, we have suspended two strata management firms with respect to trust account issues.

The Scrivener: Please tell us more about that.

Robert: It is a rather complicated process but, if a member of the public is missing money because of theft or misappropriation by a strata property manager—or, for that matter, any licensee—we can suspend in the public interest. The member of the public can file a claim for compensation through the Council

and we'll hold a compensation hearing. We'll issue a certificate and refer that matter to the Real Estate Compensation Fund Corporation.

The member of the public will be eligible to recover either all the money he or she has paid to the strata manager or a *pro rata* amount, depending on how much money has been taken.

The Scrivener: Who contributes to the special compensation fund?

Robert: Every licensee in the province pays an assessment fee into the fund—we have just over 20,000 real estate licensees. The fund is currently around \$4 million.

The Scrivener: What are the responsibilities of the Real Estate Council?

Robert: The Council is responsible for education, compliance, and competency with respect to the professional duties for real estate licensees.

With respect to discipline, today we're sitting in our hearing room. Last year we managed about 560 complaint files. Of that, a small number went to hearing or Consent Order.

Most licensees are honest, caring, and active members of their community. Those who are complained against may have made a mistake, so they're reprimanded or suspended. Suspensions typically run anywhere from 7 to 90 days. Sometimes, there's an outright cancellation of a licence. Last year, we did five cancellations. When it's required, we're quite prepared to cancel real estate licensees' licences.

The Scrivener: Can they get reinstated?

Robert: The answer to that question is *it depends*. The Commercial Appeals

Commission said you can't cancel somebody's licence forever. You can say, "Mr. Smith, your licence is cancelled with no right for re-application for 5 or 7 years," but at some point during that time, Mr. Smith might rehabilitate himself and thus have a chance to come before Council.

If a person whose licence has been cancelled decides to re-apply, we hold a qualification hearing with a panel consisting of members of Council, such as Mr. Sidhu, and a couple of other individuals. The person pleads his or her case about why he or she should be allowed to re-enter the real estate profession.

The Scrivener: Prior to the 5 to 7 years?

Robert: Typically, it's toward the end of the 5-to-7-year period. Because the market's been very active in the last year, we've had people who have left the business in years past—because their licence had been cancelled—now expressing an interest in returning to the business because they want to be part of this vibrant industry again.

The Scrivener: Please describe a situation where you would ask a licensee to come in for a hearing.

Robert: Consumers might have a complaint with respect to square footage, for example.

Satnam: Or negligence.

Robert: Or answering a question when they really didn't know the answer, which turned out to be false, which would be classified as misrepresentation.

Satnam: Saying, "Oh, no. The roof is fine. It's not going to leak" and then it leaks. There are a variety of topics based on agency issues. Perhaps they're not really looking after the best interests of their client—they're looking after their own interests.

The Scrivener: What is an example of an "agency issue"?

Satnam: Under the law of agency, you have a responsibility. You have a relationship with the agency where you are licensed and you are the client's agent. You have certain duties and certain obligations to your

client—just as your doctor and your accountant and your lawyer have obligations to you. Those professionals must do things on your behalf because they're acting on your behalf . . . and if they don't, they can be taken to task on an issue.

Perhaps they're not really looking after the best interests of their client—they're looking after their own interests.

The Scrivener: What are other highlights of the new Act?

Robert: Our rule-making ability and the creation of the Real Estate Compensation Fund Corporation—the special compensation fund. Prior to the new *Real Estate Services Act*, brokerages had to have bonds—predicated on the size of the firm and the number of licensees. The bond was between \$10,000 and \$100,000. Now with the Real Estate Compensation Fund Corporation, the maximum coverage under the special compensation fund is \$350,000. To increase consumer protection, the coverage has gone from \$100,000 to \$350,000.

Satnam: One of the other big changes was the downsizing of the Real Estate Council. We used to have 21 Council members. The number is now set at 16. We are still the largest body of this type in North America.

The makeup of the Council has changed slightly, too. We used to have 2 government-appointed public members and now we have 3. And we have someone strictly from the rental and strata property manager's side. We did not have that representation before the new Act.

The Scrivener: Do you liaise with the other regulatory bodies in BC?

Robert: We have a very close working relationship with the Financial Institutions Commission—FICOM—which regulates mortgage brokers. FICOM is responsible for—among

a number of things—pensions, insurance, and mortgage brokers, a whole array of statutes in British Columbia.

We have a very good relationship with the British Columbia Real Estate Association, they deliver our applied licensing course for us.

The Scrivener: Let's talk about your education program for licensees.

Satnam: Our education program in British Columbia is divided into two parts: the licensing course, which enables people to become licensed, and the applied practice course, a practical, hands-on course. BCREA has been delivering the applied practice course on behalf of the Real Estate Council since about 1973.

Robert: We have also worked quite closely with the Law Society with respect to activities undertaken by employees of law firms.

The Scrivener: Including lawyers?

Robert: Yes, but not so much, because lawyers are exempt from licensing under the *Real Estate Services Act*.

There was a task force comprised of representatives from BCREA, the Real Estate Council, the Law Society, and The Society of Notaries Public of BC. The task force made recommendations with respect to what an employee of a lawyer can do regarding offering real estate for sale through the Law Society. Once or twice a year, I meet with Tim McGee, my counterpart at the Law Society.

And of course because we now license strata managers, we're having more and more contact with PAMA, the Professional Association of Managing Agents, and Strata Property Agents of British Columbia (SPA BC).

We also work quite closely with the 12 real estate boards within the province. If an individual has a complaint against a real estate licensee, he or she may go to the local real estate board to say, for example, "I was dealing with Lisa and she didn't bank my deposit and I can't get it back" or perhaps the complaint is about an advertising issue.

If the licensees involved in the complaint are members of a real estate board, the real estate board may deal with the complaint. If the complaint is of a serious nature, however, the local real estate board will automatically forward it to the Council and we'll deal with it.

The Scrivener: How many staff members work at the Real Estate Council?

Robert: We have 35 staff in total, which includes an audit team comprised of 5 CGAs and CAs. As of September 10, we will have 4 staff lawyers and use 4 outside lawyers to help with the disciplinary process. Our licensing staff includes an education and licensing coordinator to handle out-of-jurisdiction requests and education equivalencies for licensing in British Columbia.

It is quite common in North America that the conditions set forth by real estate councils/commissions include a continuing education requirement as a condition of licence renewal.

In January this year, we started a Relicensing Education Program (REP). As a condition of licence renewal, licensees must complete one mandatory course, an agency course, and an elective course in their licensing cycle.

It is quite common in North America that the conditions set forth by real estate councils/commissions include a continuing education requirement as a condition of licence renewal.

For example, we issue licences on a 2-year cycle. Licensees who were licensed for the first time or who renewed their licences in January 2007 will have to have completed their relicensing education by the time they go to renew their licence in January 2009.

The Scrivener: Must a person be a resident of Canada to qualify for a real estate licence in BC?

Robert: No. For instance, if you were a resident of Washington State and wanted to be licensed in British Columbia, we would allow that, but you would have to be licensed with a British Columbia real estate brokerage.

The Scrivener: Please tell us more about the Real Estate Council of BC.

Robert: The Council appoints a member to the statutory corporations: 1 governor to the Real Estate Foundation, 3 directors to the Real Estate Compensation Fund Corporation, and 4 directors to the Real Estate Errors & Omissions Insurance Corporation. The majority of these individuals are past members of Council—experienced licensees who understand how the real estate business is organized. They are not current members of the Council.

It's interesting that a lot of real estate councils or commissions are *appointed*. In British Columbia, Council members are elected. The licensees elect them, based on counties. That's very similar to the way the Law Society elects its members.

The province is divided into counties; each county elects a certain number of licensees to the Council. For example, in the county of Vancouver, 3 broker members and 1 representative member may be elected. In the county of Yale, 1 member is elected. You end up having 12 elected members. A rental/strata management person is elected by the whole province and we have 3 government-appointed public members.

Satnam: Our Council is the largest real estate commission in North America. In the US, they're called commissions and are almost entirely appointed by the state governor.

Robert: Or there's a single commissionaire such as in California, where they don't have a commission. They have a Real Estate Commissioner—Jeff Davi.

The Scrivener: Does each Canadian province have a real estate council or commission?

Robert: Not each province. Alberta, Nova Scotia, and Ontario have councils and Saskatchewan has a commission. In Manitoba, there is a Superintendent of Real Estate.

Currently there's a trend to have councils and commissions. As I mentioned earlier, we've been around, as of next year, for 50 years. Last year, Alberta celebrated its 10th anniversary with a council; the Real Estate Commission in Saskatchewan is about the same age.

The Scrivener: With what other organizations do you work closely?

Satnam: We work closely with BCREA, and when there are major industry issues, we often get input from BCREA.

The Scrivener: Please give us an example.

Satnam: We have planned a task force to look at the whole agency issue. We're meeting in September with BCREA and its 12 member boards. We will be taking a look to see what is happening in the common practice and whether there should be any changes. We have a joint effort to look at that whole issue.

Robert: Another example is that we introduced REP on January 1, 2007. A year prior, the BCREA and its member boards introduced a Professional Development Program for their members as a condition of board membership.

We've worked with BCREA so that a number of their approved courses for their members are also on the list for REP. This way, they can take the same courses to satisfy both programs.

We work very closely with BCREA and its member boards so we're not creating an unnecessary bureaucracy and making licensees take more courses than necessary.

I mentioned earlier that BCREA puts on the applied practice course for us. We work very closely with them because having new licensees take that education is a very important part of the licensing process.

We've been very involved with the Association of Real Estate License Law Officials (ARELLO), where all the

real estate councils and commissions in North America get together. And once a year, the Superintendents of Real Estate and the executive officers of the various real estate councils and commissions in Canada meet to talk about various topics pertaining to our areas of interest.

The Scrivener: How often do you meet as a full council?

Satnam: We meet eight times a year in person and have conference calls to deal with the odd item that needs to be addressed between meetings.

We work very closely with BCREA and its member boards so we're not creating an unnecessary bureaucracy and making licensees take more courses than necessary.

The Scrivener: Is being Council Chair a large time commitment for you, Satnam?

Satnam: Through my past involvement in the Vancouver board and CREA and BCREA, and because I was Council Vice Chair last year, I was somewhat aware of the workload. As you move to a more responsible position, the time commitment does increase but I find this commitment much easier on my time than when I was involved with CREA—those meetings were usually held in Ottawa! I went to the airport for some reason or another 36 times the year I was President!

LAUGHTER

The Scrivener: What is a typical day for you?

Satnam: My typical day includes a phone call from Robert. We talk at least once or twice a day. My office is in North Vancouver. I also do real estate sales and often have appointments for showings, which keeps me away from the office but I'm always available by cell phone.

The Scrivener: Is your weekend and evening time still consumed by clients or have you found a way to control that?

Satnam: The demands on my time are not the same as they used to be, Val. The reason is the nature of the business I'm in. I've developed some contacts with the banking industry and tend to do more listings than sales. Listings can be shown by others even when I am not on the property. Also, I usually work only with buyers referred to me or people I know or clients with whom I've done business in the past. Now I even have past clients' kids calling me for help when looking to buy a home.

The Scrivener: Do you hold open houses for homes you have listed?

Satnam: Having an open house is not necessarily what's going to sell it and some sellers don't want open houses. Anyone serious about buying a home is working with a real estate agent—a professional who's doing the research for them. With the computer programs we have today, our job descriptions have changed a lot over the years.

With my foreclosure listings, my partner and I do very few open houses during the year.

The Scrivener: Foreclosures?

Satnam: That is part of my business. We just sold a couple of foreclosure properties last week and I was in court the week before, as well. Foreclosure listings usually don't require opens on weekends. I do, however, hold open houses for some of my other listings. Absolutely!

The Scrivener: Why in this market are there foreclosures?

Satnam: I've seen situations where people borrowed money against their home—perhaps they went into a new business and the business doesn't make it. They weren't earning income while their business was failing and now they owe a lot of money. Furthermore, they are now out of a job.

The Scrivener: Wouldn't it be more profitable for them to sell their home, rather than let it be sold as a foreclosure?

Satnam: Well, some do, but some keep hanging on and hanging on, hoping something will turn around and that things will work out for them. Or

...there can be many reasons that a property goes into foreclosure.

maybe they're going to win the Lotto or hoping someone will leave them a whole bunch of money.

I had one situation where the husband was in jail. In another instance, the man died and his ex-wife, whose name was still on title, wasn't making the payments. His new girlfriend, who was living in the property, wasn't making the payments either. She said, "It's not my house." So the bank foreclosed because no one was making the payments.

As you can see, there can be many reasons that a property goes into foreclosure. Some people skip the country. I recently sold a property on Salt Spring Island where the owner skipped to England because her B&B business failed and she owed more than the value of the property.

The Scrivener: Please compare the structure of the Real Estate Council with The Society of Notaries Public of BC.

Robert: We have very similar structures. Wayne Braid works with a board and we have a board. The Society has a compensation fund; we have a compensation fund. The Society has the Notary Foundation and we have the Real Estate Foundation.

I talk to Wayne from time to time and he has been very helpful. For example, when we were looking at investment managers for the Real Estate Compensation Fund Corporation, Wayne offered us the benefit of his experience with the Notary Foundation.

The Scrivener: Thank you so very much, gentlemen. Satnam, how has it been for you—sitting in The Hot Seat?

Satnam: I just told the truth!

LAUGHTER ▲

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