

IN THE MATTER OF: THE REAL ESTATE BROKERS ACT

-and-

**IN THE MATTER OF: JACOB EDWARD PENNER,
ALSO KNOWN AS JAKE PENNER**

**STATEMENT OF ALLEGATIONS OF STAFF
OF THE MANITOBA SECURITIES COMMISSION**

**STAFF OF THE MANITOBA SECURITIES COMMISSION ALLEGE, AMONG
OTHER THINGS, THAT:**

A. REGISTRATION

1. Jacob Edward Penner, also known as Jake Penner ("PENNER") has been registered under The Real Estate Brokers Act ("REBA") as a salesman since June 5, 2003 to present.
2. At all material times, PENNER was employed as a real estate salesman by Maximum Realty Ltd.

B. DETAILS

3. At all material times the real estate property in question was a single family detached bungalow situated in Winnipeg, Manitoba ("Property").
4. On or about August 19, 2005, the vendors of the Property entered into a Listing Contract with Maximum Realty Ltd. Thereafter in August of 2005, PENNER conducted showings of the Property as the listing salesperson.
5. In August of 2005, Mr. A viewed the Property on more than one occasion.
6. In the course of the viewings, Mr. A asked PENNER for his understanding of the Local Improvements. PENNER informed Mr. A that he had additional information regarding Local Improvements in a folder. Mr. A did not receive the folder.
7. PENNER advised to the effect that the Local Improvements fees were in the range of \$50 per frontage foot, which would be \$5,000. This estimate did not include sewer and water costs.
8. PENNER represented the \$50 per frontage foot to be a one-time fee.
9. PENNER further advised that the \$5,000 figure could be paid over 25 years.
10. PENNER arrived at the estimation of \$5,000 based upon his own interpretation of the documentation in a folder which had been provided by the vendors.

11. At all material times, the information in the possession of PENNER or available to him on Local Improvements (excluding sewer and water) included the following:

TABLE 2

DISTRICT LEVY RATES			
Stage	District Cost	Total Levy Rate*	Annual Levy Rate**
Pond	\$850,000	\$0.50/sq. ft	\$0.05/sq. ft.
I	\$1,740,000	\$124.93/fr.ft.	\$11.86/fr.ft.
II	\$1,320,000	\$94.78/fr.ft.	\$8.99/fr.ft.
III	\$1,770,000	\$127.09/fr.ft.	\$12.06/fr.ft.
IV	\$1,280,000	\$91.91/fr.ft.	\$8.72/fr.ft.

*Based on a total assessable area of 1,699,587.9 sq. ft. and total assessable frontage of 13,927.4 fr. ft.

** Based on equal distribution over 25 years

12. At all material times, the frontage feet of the Property was 100.

13. At all material times, the square footage area of the Property was 11,900.

14. Based upon the information contained within TABLE 2 alone, the total estimated annual levies were \$4,758.

15. Mr. A relied upon the information he had been told by PENNER about the costs of the Local Improvements when considering to purchase the Property.

16. On or about August 29, 2005, with PENNER also acting as their agent, Mr. A and his wife ("Buyers") made an offer to purchase the Property.

17. While the offer did include conditions benefiting the buyer, the offer did not include any conditions benefiting the buyer regarding verification of the nature or costs of the Local Improvements project. In this regard, the Buyers relied upon what had been communicated by PENNER.

18. Subsequent to the offer, the vendors made a counter-offer and the Buyers accepted.

19. As with the original offer of the Buyers, the counter-offer and acceptance did not include any conditions benefiting the Buyer as to Local Improvements.

20. After the purchase of the Property, in early 2006 (Stage I) and in early 2007, the Buyers received Local Improvement Cash Cost Statements from the City of Winnipeg for Stages I II, III, Pond, Lot Line Connections (water) and Lot Line Connections (wastewater) showing the final levy rates and requesting payment of taxes totaling cash amounts of \$36,692.61. When added to the Stage IV levy, estimated prior to the purchase as \$9,191 and in 2008 having a commuted value of over \$16,000, the total levies for Local Improvements in cash are in excess of \$50,000.

ALLEGATIONS

1. Staff of the Commission allege that PENNER:

(a) acted in a manner not in accordance with industry standards and contrary to the interests of the Buyers by failing to correctly ascertain and advise the Buyers of the costs regarding Local Improvements as known or estimated at the time of the Purchase;

and that due to these allegations, it is in the public interest that the registration of PENNER under REBA be suspended or cancelled.

2. Such further and other matters as counsel may advise and this Commission permits.

DATED at Winnipeg, Manitoba this 3rd day of July, 2008.

Director, Legal and Enforcement

**TO: JACOB EDWARD
PENNER,
ALSO KNOWN AS JAKE
PENNER**