

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
233 RICHMOND STREET
PROVIDENCE, RHODE ISLAND 02903**

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|--------------------------|---|---------------------------|
| IN THE MATTER OF: | : | |
| | : | |
| ALAN BRUNELLE, | : | DBR No.: 08-L-0042 |
| | : | |
| RESPONDENT. | : | |

CONSENT AGREEMENT

It is hereby agreed between the Department of Business Regulation (“Department”) and Alan Brunelle (“Respondent”) as follows:

1. Respondent is licensed as a real estate salesperson (license no. S26418) to engage in the business of real estate pursuant to R.I. Gen. Laws § 5-20.5-1, *et seq.*
2. On July 12, 2007, the Department received a complaint (“Complaint”) from Allyson M. Saad (“Complainant”) alleging Respondent violated R.I. Gen. Laws § 5-20.5-1, *et seq.*, in connection with Complainant’s purchase (along with her husband, Michael Saad) of 38 Metcalf Avenue, North Providence, Rhode Island (“the property”) on or about October 26, 2006.
3. Respondent listed and presented the property as a legal, nonconforming three (3) family residence.
4. Complainant and her husband attempted to sell the property in 2006. They found a buyer and entered into a purchase and sales agreement with him. The buyer then discovered that the property was zoned as a legal, nonconforming, single-family residence. As a result, the buyer canceled the purchase and sale agreement.

5. Complainant provided the Department with a copy of a Zoning Certification from the Town of North Providence, dated October 19, 2006, that describes the property as a legal, nonconforming, single-family residence.

6. In 2007, Complainant went through the process to correct the zoning certification for the property as a legal, nonconforming three (3) family.

7. Complainant avers that she and her husband would not have purchased the property if they had known that it was zoned as a single-family residence.

8. Respondent provided a response, dated September 24, 2007, to the Complaint in which he admits to marketing the property as a three-family residence and relied on supporting data from "the Zoning Officer for the Town of North Providence" in doing so. As evidence thereof, he provided a copy of a Zoning Certification from the Town of North Providence, dated September 12, 2007, that describes the property as a legal, nonconforming, three (3) family residence.

9. Respondent represents that he acted properly with respect to his representation of Complainants and makes no admission as to the allegations raised in the Complaint.

10. R.I. Gen. Laws § 5-20.5-6(b) provides that the Department, after a due and proper hearing, may suspend, revoke, or refuse to renew any license upon proof that the license was obtained by fraud or misrepresentation or upon proof that the holder of the license has violated this statute or any rule or regulation issued pursuant to this statute.

11. R.I. Gen. Laws § 5-20.5-12(a)(2) provides that the Department shall establish any reasonable rules and regulations that are appropriate to the public interest.

12. R.I. Gen. Laws § 5-20.5-14(a)(15) authorizes the Department to suspend or revoke a license where a licensee violates any rule or regulation promulgated by the commission or the Department.

13. Rule 20(B) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* further provides:

Every Licensee shall make a diligent effort to ascertain all pertinent information and facts, including but not limited to lot size, zoning, presence or absence of town water or sewer connection, and in the course of a new dwelling, municipal acceptance of the plat and certificate of occupancy, concerning every property for which he/she accepts an agency, and concerning every person for whom he/she submits an offer to his/her principal.

14. R.I. Gen. Laws § 5-20.5-14(a)(20) authorizes the Department to suspend or revoke a license where a licensee, in performing or attempting to perform any of the acts mentioned in this chapter, engaged in any conduct in a real estate transaction that demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.


15. R.I. Gen. Laws § 5-20.5-14(b) authorizes the Department to levy an administrative penalty not exceeding one thousand dollars (\$1,000) for any violation under this section or the rules and regulations of the Department.

16. Based on the foregoing, the Department has reason to believe that Respondent violated R.I. Gen. Laws § 5-20.5-14(a)(15), and (20), and Rule 20(B) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, for (a) failing to make a diligent effort to ascertain the proper zoning classification of the subject property and (b) demonstrating incompetency in a real estate transaction.

17. In an effort to effect a timely and amicable resolution of the issues raised in this Consent Agreement without an administrative hearing or a finding of a violation of R.I. Gen.

Laws § 5-20.5-1, *et seq.*, and allow Respondent to maintain his license in good-standing, Respondent agrees to pay \$500.00, payable to the Rhode Island General Treasurer, to resolve this matter and voluntarily waives his right to the hearing process and voluntarily waives his right to appeal to Superior Court.

CONSENTED TO AS TO FORM AND SUBSTANCE BY:



Michael P. Jolin, Esq.
Deputy Chief of Legal Services
Department of Business Regulation

Date: 7-17-08



Alan H. Brunelle, Respondent
Century 21 Butterman & Kryston
749 East Avenue
Pawtucket, Rhode Island 02860

Date: 7/9/08