

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
 DEPARTMENT OF BUSINESS REGULATION  
 1511 PONTIAC AVENUE  
 CRANSTON, RHODE ISLAND 02920

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 IN THE MATTER OF: :

DIANA M. KRYSTON, :

DBR No.: 08-L-0042

RESPONDENT. :

CONSENT AGREEMENT

It is hereby agreed between the Department of Business Regulation (“Department”) and Diana M. Kryston (“Respondent”) as follows:

1. Respondent is licensed as a real estate broker (License No. C12588) 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 from Allyson M. Saad (“Complainant”) alleging violations of R.I. Gen. Laws § 5-20.5-1, *et seq.* related to the purchase of 38 Metcalf Avenue, North Providence, Rhode Island by Complainant and her husband, Michael Saad.

3. Respondent listed and presented the property as a legal, non-conforming three (3) family residence in January, 2001.

4. Complainant and her husband attempted to sell the property in 2006. Complainant and a potential buyer entered into a Purchase and Sale Agreement. The buyer alleged that the property was zoned as a legal non-conforming single family residence resulting in the cancellation of 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 non-conforming single family residence.

6. In 2007, Complainant avers that she went through the process to correct the Zoning Certification for the property as a legal non-conforming three (3) family residence.

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 14, 2007 to the complaint in which she avers that the sellers completed a R.I. Real Estate Disclosure Form representing that the property was a three (3) family unit and that the property was zoned with the Town of North Providence as a legal non-conforming three (3) family property.

9. Respondent represents that she acted properly with respect to her representation 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 the statute or any rule or regulations 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 use.

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 Sales Persons* 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 and 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.

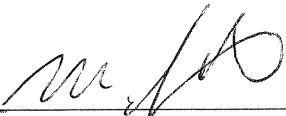
15. R.I. Gen. Laws § 5-20.5-14(b) authorizes the Department to levy an administrative penalty not exceeding One Thousand (\$1,000) for any violation under this section or the rules and regulations of the Department.

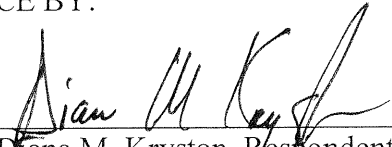
16. Based on the foregoing, the Department has reason to believe that Respondent violated R.I. Gen. Laws § 5-20.5-14(a)(15) and (20) and Rule 20(b) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Sales Persons*, for (a) failing to make a diligent effort to ascertain the proper zoning 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 or R.I. Gen. Laws § 5-20.5-1, *et seq.*, and allow Respondent to maintain her license in good standing, Respondent agrees to pay Five Hundred (\$500.00) Dollars payable to the Rhode Island General

Treasurer to resolve this matter and voluntarily waives her right to the hearing process and voluntarily waives her right to appeal to Superior Court.

CONSENTED TO AS TO FORM AND SUBSTANCE BY:

  
\_\_\_\_\_  
Michael P. John, Esquire  
Deputy Chief of Legal Services  
Department of Business Regulation

  
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Diana M. Kryston, Respondent  
Century 21 Butterman & Kryston  
749 East Avenue  
Pawtucket, RI 02860

Date: 7-29-08

Date: July 23, 2008