

2013-026

**DECISION OF THE DISCIPLINE COMMITTEE  
WITH RESPECT TO PENALTY**

In the matter of a Discipline Committee Hearing held pursuant to Section 23(1) of *The Act to Incorporate the New Brunswick Real Estate Association* (the “Act”):

BETWEEN

The New Brunswick Real Estate Association (the “Association”)

- and -

Roxanna Trottier

Date of Hearing: June 3, 2015, 10:00 am

Place of Hearing: NBREA Boardroom (Teleconference), 22 Durelle St. Fredericton, NB

Members of Committee: Alan Van Wart, Chair  
Karl Merrill  
Lise Allen  
Mona Payne  
Edouard Allain, Government Appointee

Appearances: Trisha Gallant, Counsel for the Association  
Roxanna Trottier, Respondent

UPON the following charges submitted by Trisha Gallant, Prosecutor appointed by the Association:

Between November of 2012 and March of 2013, inclusive, Roxanna Trottier, a member as defined by the *Act*, failed to discover facts pertaining to a property which a prudent REALTOR® would discover in order to avoid error or misrepresentation as set out in the Complaint, thereby committing an act of professional misconduct, in violation of Article 4 of The REALTOR® Code (effective May, 2011), and punishable under subsections 23(4) and 23(5) of the *Act*.

Ms. Gallant presented on behalf of the Prosecution.

Ms. Trottier represented herself.

Both Parties acknowledged the composition and jurisdiction of the Committee to hear and determine the complaint.

Ms. Trottier confirmed that she has admitted the substance of the charges without requiring a hearing on the merits. The Committee therefore proceeded as a Penalty Hearing.

The Committee accepted the following documentary evidence:

- Exhibit 1 – Charge as contained in the Notice of Hearing, included in the Book entitled ‘2013-026 Trottier Hearing Documents’

### **Submissions:**

Ms. Gallant stated Ms. Trottier, as the listing REALTOR® failed to take steps to determine the details of the heat pump in a home purchased by the Complainant. Contrary to what the Complainant understood she was purchasing, the heat pump was an air conditioning unit only. While Ms. Trottier did not appear to intentionally mislead the Complainant, she did fail to discover facts and to stay abreast of relative technology which a prudent REALTOR® is obligated to do and, as a result, was charged with violating Article 4 of the REALTOR® Code.

Ms. Gallant recommended a fine of \$250. She said the estimated costs for the hearing is in the range of \$2000 and suggested a cost assessment amount of \$250.

Ms. Trottier concurred with Ms. Gallant’s recommendations.

It was noted that Ms. Trottier’s Agent has since implemented education sessions regarding heat pump technology and has worked with the Greater Moncton REALTORS® du Grand Moncton to modify the MLS® property portfolio to increase the accuracy of the data in this regard.

Ms. Gallant recognized and commended this initiative and suggested this information be taken into consideration by the Committee.

### **Findings:**

The Committee considered the evidence and the submissions of the parties. While they appreciated Ms. Trottier accepted responsibility for her actions and elected to proceed to penalty, resulting in reduced costs for the Association, the Committee felt the issue could have been resolved in the preliminary stages before a complaint was registered.

The Committee recognized the importance of the accuracy of the MLS® data and the challenge of providing adequate detail, especially regarding changing technology. They encourage all local boards to remain vigilant in this regard.

After deliberation, the Committee hereby orders as follows pursuant to s. 23(4) of the Act:

1. Respondent Roxanna Trottier shall pay to the Association the sum of \$500 as a penalty for the preceding violation within 30 days of the signing date of this decision. Should the penalty payment not be received within said 30 days, membership in the Association will automatically be suspended. A reinstatement fee of \$200.00 plus HST, will then apply, in accordance with NBREA's standard practice for reinstatement of membership.
2. Respondent Roxanna Trottier shall pay to the Association the sum of \$500 towards costs incurred by the Association during the prosecution of the preceding violation within 30 days of the signing of this decision. Should payment of this amount not be received within said 30 days, membership in the Association will automatically be suspended. A reinstatement fee of \$200.00 plus HST, will then apply, in accordance with NBREA's standard practice for reinstatement of membership.
3. Pursuant to s. 23(4)(f) of the Act, the Discipline Committee directs the Registrar to publish this decision on the NBREA website, [www.nbrea.ca](http://www.nbrea.ca).

In accordance with s. 25(1) of *the Act*, may appeal this decision within thirty (30) days from the date of the decision.

DATED this 11<sup>th</sup> day of June, 2015.



---

Alan Van Wart, Chair, on behalf of the Committee