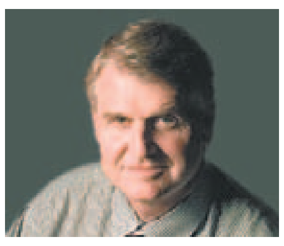
B.C. Law Society to limit obligations



DAVID BAINES
VANCOUVER SUN
COLUMNIST

After a bruising by rogue lawyer Martin Wirick, and disturbing encounters with promoters who use lawyers as conduits for investment schemes, the B.C. Law Society has moved to redefine and limit its obligations to clients who are victims of lawyer fraud.

The new rules have important implications. They limit payouts on claims for lawyer fraud to $300,000 per transaction, and impose a cumulative cap of $17.5 million in any one year. Society officials have also made it clear they will not compensate clients who forward money "in trust" to lawyers on account of investment schemes that go awry.

From 1998 to 2002, Wirick aided and abetted a massive fraud orchestrated by real estate developer Tarsem Gill. Gill's method of operation was to develop a property and sell it to one of his nominees. The nominee would arrange a mortgage on the property, and then sell it to an innocent purchaser.

The purchaser, in turn, would arrange financing from his lending institution and forward the money to Wirick on his undertaking to pay off the original mortgage loan and register a new first mortgage. But rather than disburse the money as promised, Wirick simply paid the funds to Gill and his Vanview group of companies.

In many cases, Wirick would provide false discharge documents, and a portion of the purloined money would be used to keep the original mortgage payments current, so neither the purchaser nor the original mortgage lender would be any the wiser.

The new mortgage lender, meanwhile, naturally assumed he had obtained a first mortgage against the property, but since the original mortgage hadn't really been discharged, he was actually in second position.

In some cases, this process was repeated, enabling Gill to mortgage the property many times over and generate more money than it was worth. Eventually, the scheme collapsed, revealing a rat's nest of transactions, mortgages and competing claims.

In May 2002, law society officials took over Wirick's practice. They found that $52.7 million had passed through his trust accounts to Gill and his companies. The potential claims were enormous.

At the time, the law society had a $17.5-million annual cap on client claims for lawyer fraud. Clearly this was not going to be enough to compensate Wirick's victims. So the society, to its credit, removed the cap.

So far, it has approved claims for $36.4 million, and is considering another $11.7 million. To pay for these large capital outlays, the society has imposed additional assessments on its 10,000 lawyer-members. It has been a tough pill for the membership to swallow.

Now that the Wirick fiasco has been substantially addressed, the law society has decided to revise and clarify what it will do, and not do, for victims of future lawyer frauds.

First, it has decided to limit individual claims to $300,000. If, for example, a home purchaser transfers $1 million to a lawyer on his undertaking to deliver clear title, and the lawyer absconds with the funds, then the purchaser will no longer be able to claim the other $700,000 from the compensation fund. (The purchaser will, of course, have the usual civil redress.)

Secondly, the law society has reinstated the annual cumulative cap of $17.5 million. If total claims in any given year exceed this cap, payments will be made on a pro rata basis. In these instances, the maximum payout to claimants could be even less than $300,000.

But the law society says that, according to its claims history, this does not present much of a problem. Since 1986, 98 per cent of all compensation payments (aside from the Wirick claims) have been for amounts less than $300,000. Even in the Wirick claims, 76 per cent of all claimants were fully compensated by payments under $300,000, the society says.

The society also says modelling analysis shows that, under the new system, victims of a similar Wirick-size fraud would receive pro rata compensation for 98.2 per cent of the value of their claims.

So clients do not appear to be unduly exposed. Indeed, as far as compensation schemes are concerned, the B.C. society's is one of the best, if not the best.

The Law Society of Upper Canada, for example, imposes a limit of $100,000 per claim, and even then financial institutions are excluded from making claims.

At the same time, the law society has clarified it will exclude claims for losses arising from fraudulent investment schemes that use lawyers as conduits.

These are situations where promoters direct investors to send their cheques to B.C. lawyers "in trust" with the implicit or explicit representation that the law society will guarantee them against loss.

The law society says it recently foiled a case where a promoter was soliciting a U.S. investor to send $8.7 million US to a B.C. lawyer "in trust" on the representation that the money would be protected by the society's compensation fund.

"The intention of the Special Compensation Fund is to assist innocent victims of dishonest lawyers, not to act as an insurer respecting highly speculative and questionable investment schemes," the society explains.

That makes sense, but it does not address the strong possibility that lawyers, in acting as financial conduits, are knowingly aiding and abetting a stock fraud and/or laundering money.

From 2000 to 2003, Thai fugitive Rakesh Saxena orchestrated a stock scheme in which he induced European investors to send more than $18 million "in trust" to Vancouver lawyers John (Jack) Martin and Craig Iwata. Saxena diverted most of the money, prompting dozens of investors to file claims with the law society.

The law society suspended Martin and Iwata for trust account irregularities, but made no mention of the stock scheme and did not address their role in it. It is not clear whether the society is seriously considering any of the victim's claims.

"We haven't reached the stage where we can comment on that," Tim McGee, the society's executive director, said in an interview Tuesday.

dbaines@png.canwest.com

U.S. deal sparks leap for Inex

BY FIONA ANDERSON
VANCOUVER SUN

BIOTECH | Shares of Inex Pharmaceuticals Corp. jumped 77 per cent in heavy trading Tuesday on news that the Burnaby-based company has entered into a $17 million US deal with Alnylam Pharmaceuticals Inc.

Massachusetts-based Alnylam will gain exclusive rights to Inex's technology for delivering Alnylam's drugs that specifically target, and silence, disease-causing genes.

Alnylam will pay Inex $8 million US immediately plus another $4 million for research and development to improve its lipid-based delivery system and a $5 million loan for equipment to provide manufacturing services to Alnylam. Inex will also be entitled to milestone payments up to $13 million US for every drug Alnylam or its partners produce using Inex's delivery system.

In addition, Inex will be entitled to use Alnylam's technology to develop three of its own drugs.

It's a great deal for Inex, which gains money to develop its own products while enjoying the success of Alnylam, Inex CFO Ian Mortimer said in an interview.

"So we've really set the company [up] both for near-term financial stability and also with an ability to generate cash in the future as all these products move into development," he said.

The deal is the latest good news for previously troubled Inex, whose fortunes starting turning when it licensed its anti-cancer drug Marqibo to Hana Biosciences Inc. last March for $11.5 million US.

The only complication may be a lawsuit brought against Inex by former subsidiary Protiva Biotherapeutics, which claims a right to Inex's delivery technology. But Inex president and CEO Timothy Ruane said the deal with Alnylam shows that "a very sophisticated company," has confidence in Inex's contractual ability.

Analyst Brian Bapty of Raymond James said Inex "is definitely emerging from a very troubled 2005 to a constructive 2006 to hopefully a 2007 with further positive momentum."

"When you do a deal with an internationally recognized company and you get a material upfront payment, it's going to turn a few heads," Bapty said.

Inex shares closed at $0.62 on the TSX on Tuesday, with 5.7 million shares trading, up from $0.35 on Monday.

fionaanderson@png.canwest.com

Maple Ridge's affordable land fuelled housing boom in '06

BY DERRICK PENNER
VANCOUVER SUN

Maple Ridge experienced a housing boom in 2006, while Greater Vancouver housing starts as a whole slipped by two per cent.

The outer suburb has land on which to build, and it is where buyers can afford to be.

So builders started work on 974 new homes in Maple Ridge during 2006, a 106-per-cent increase from 2005, according to Canada Mortgage and Housing Corp. (CMHC) figures.

And the ratio of new single-family homes to multi-family condominiums was almost equal at 446 to 528. Across Greater Vancouver, condos outnumber houses by more than two to one.

"Land availability is an issue," Bryan Yu, a market analyst with CMHC said.

"Part of it was to do with costs as well. If you look at the resale market, places like Maple Ridge do have lower average costs as well."

Greater Vancouver saw construction start on 18,597 new homes, an overall two-per-cent decline from 2005, CMHC reported Tuesday.

The drop, however, was entirely in multi-family units, which, at 12,997 starts, were seven-per-cent lower in 2006 than they were in 2005.

Single-family-home starts, at 5,600, were up 13 per cent across the region. The City of Vancouver also posted one of the bigger gains in single-family-home construction with 798 starts, 44 per cent above 2005.

Condominium construction in Vancouver, at 2,628 units in 2006, was 27 per cent below 2005, which dragged overall starts down by 18 per cent.

Tsur Somerville, director of the centre for urban economics and real estate in the Sauder School of Business at the University of B.C., said 2006 was "not one constant story."

"It was a story of things peaking, and then dropping back, which was the case for Abbotsford, Victoria, Kelowna and other markets.

"The bottom line is that the cooling down [of real-estate markets] that we've talked about all year is happening."

The growth areas were municipalities that had space for building single-family homes, Somerville said.

And in the core, where land has to be redeveloped, and there is more pressure to increase density, builders built more multiple-family housing.

"All things being equal, [single-family construction] should be the market that remains strong," he added, "just because it's owner occupied and not driven so much by investment."

Surrey built more single-family houses — 2,247 — and more housing units — 4,596 — than any municipality in the region. Starts there were up 20 per cent.

The Tri-Cities — Coquitlam, Port Coquitlam and Port Moody — saw housing starts shoot up 20 per cent as well.

Richmond's starts were up 18 per cent and North Vancouver saw a 15-per-cent increase in housing starts over 2005.

Peter Simpson, CEO of the Greater Vancouver Home Builders' Association, said the limited pool of construction labour also stretched developers' ability to increase starts.

"The pace [of construction] has slowed somewhat so we can keep concentrating on the projects we're working on right now," Simpson said.

He added that housing starts are expected to ease off a bit more in 2007, but remain at a relatively high 16,000 or 17,000 units because of favourable mortgage rates and a steady economy.

The Fraser Valley saw 9,781 new housing units started in 2006, a 24-per-cent increase from 2005.

Provincewide, B.C. posted 32,463 new-home starts over 12 months, four per cent above 2005.

Starts were also up across Canada with the estimated 227,400 new starts nationwide, the second highest level in two decades.

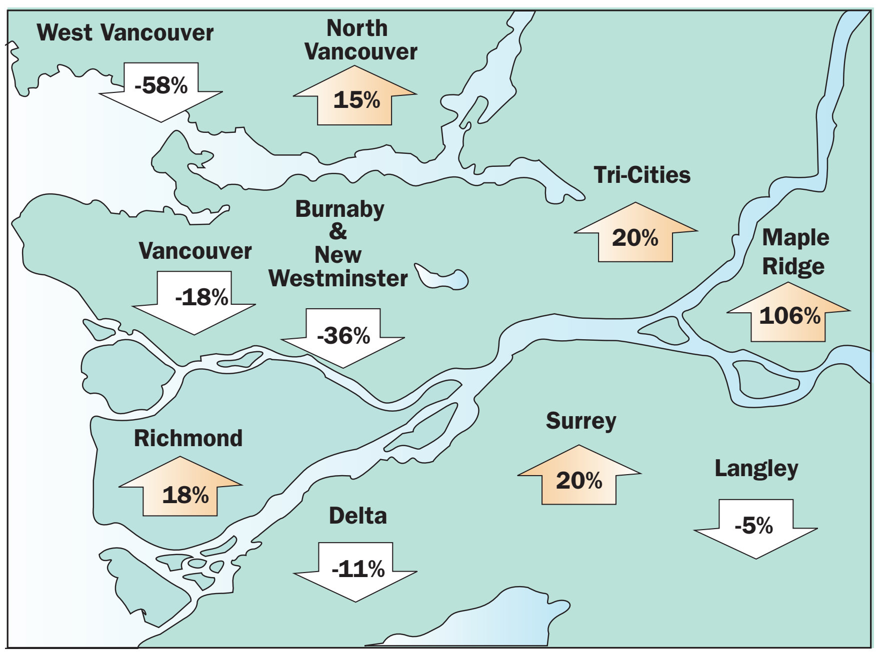
However, the pace of new-housing construction slowed through the last half of 2007, which CMHC believes is the trend that will prevail.

"That downward trend is really what we think the key market signal is," CMHC chief economist Bob Dugan said, adding that housing starts in 2007 are forecast to decrease to 210,900 units.

depenner@png.canwest.com

Mixed bag for housing starts in 2006

When it comes to all types of new housing construction in 2006, Maple Ridge took off while West Vancouver, Vancouver, Burnaby and New Westminster slowed down compared to the same statistics in the preceding year.



Source: CMHC VANCOUVER SUN

Taseko raises its hostile bid for bcMetals

Taseko Mines Ltd. raised its hostile bid for bcMetals Corp. (TSXV:C) on Tuesday, offering $44.1 million for the company and dropping certain conditions to top rival Imperial Metals Corp.'s recently sweetened $43.2-million bid.

Taseko is now offering $1.15 per share instead of $1.10 per share, trumping Imperial's improved $1.125-per-share bid announced Monday.

Taseko also said late Tuesday it's dropping two key conditions, including that bcMetals cancel a proposed joint venture with Hong Kong-based Global International Jiangxi Copper Company Ltd., which agreed to contribute US$105 million towards developing the Red Chris copper mine.

Taseko's latest offer expires Jan. 19.

"Taseko's bid is now clearly superior to Imperial's bid in price, conditions and timing," Taseko CEO Russ Hallbauer said in a release after stock markets closed.

Canadian Press

More Canadians vacation in Canada

BY BRUCE CONSTANTINEAU
VANCOUVER SUN

STATISTICS | A surge in domestic tourism spending more than offset a $100-million drop in spending levels by foreign tourists in Canada during the third quarter last year.

Statistics Canada reports Canadian tourists spent more than $10.8 billion across Canada between July and September — a $237-million increase over the second quarter.

Foreign spending in the Canadian tourism sector fell by $100 million during the same period to $3.448 billion. The number of U.S. visitors to Canada fell by 3.9 per cent during the quarter while there were one per cent fewer visitors from other countries.

The U.S. is by far Canada's most important international tourism market and Canadian officials say U.S. visitation has dropped due to border hassles, fuel prices, confusion over passport requirements and the stronger Canadian dollar.

StatsCan said the overall one-per-cent increase in tourism spending during the third quarter — to $14.3 billion — represents the 13th straight quarterly increase in tourism demand since the SARS outbreak during the second quarter of 2003.

Domestic spending experienced strong gains during the third quarter on accommodation (up 3.7 per cent), vehicle rental (up 5.9 per cent) and vehicle fuel (up 3.6 per cent).

Employment in the national tourism sector rose by 0.4 per cent during the quarter, due mainly to job gains in air transportation (up 2,000 to 58,200).

StatsCan said gross domestic product in the tourism sector grew by 0.8 per cent during the third quarter — twice the 0.4-per-cent pace posted by the national GDP. It said most of the strength came from the food and beverage and accommodation sectors.

A strong economy and national currency have encouraged more Canadians to travel abroad in recent years and the trend continued in the third quarter, with the international travel deficit rising to $1.9 billion from $1.6 billion in the second quarter.

The deficit is the difference between what Canadians spend abroad and what foreign visitors spend in Canada.

bconstantineau@png.canwest.com