

New Homeowner Protection:

RESPONSE BOOKLET

JULY 2008

We want your ideas

What Do You Think?

A review of new homeowner protection is underway in response to concerns about new residential construction, including condominiums. The review is being led by independent consultants.

The Province is interested in hearing your views on this topic.

A discussion paper is now available on-line for public feedback. This response booklet is being provided to help you submit your observations and comments relating to the discussion paper.

The information obtained through this consultation process will help to develop recommendations to government on measures to improve or address the concerns.

A final report to government from the consultants is expected by early fall.

Contact Information

Please send your completed response booklet, by August 22, 2008, to:

Consumer and Business Policy
Service Nova Scotia and Municipal Relations
Maritime Centre, 8 South
1505 Barrington Street
P.O. Box 1003
Halifax, Nova Scotia B3J 2X1

Fax: (902) 424-7434

All submissions will be considered to be public documents. Any personal information is subject to the provisions of the Nova Scotia Freedom and Information and Protection of Privacy (FOIPOP) Act.

From what perspective will you be answering these questions?

- As an individual
- Homeowner
- Condominium owner
- As a business.

Please specify what kind of business:

- As a representative of a condominium corporation.
Please specify position and condominium corporation:

- As a representative of a community group or organization.
Please specify position and organization:

- Other.
Please specify:

The questionnaire is laid out to ask questions about each topic covered in the discussion paper. The last question is a general opportunity to provide additional comment on Homeowner Protection in Nova Scotia.

If you wish, you may also provide your contact information so that the consultants can follow up with any clarification questions.

NAME:

CONTACT INFORMATION:

5.3 Improving Construction Quality

5.3.1 Industry-Wide Factors

Industry-Wide Factors: Licensing of Construction Trades

A number of proposals for the licensing of construction trades have been submitted to government. Although many trades (e.g., electricians, plumbers) do currently require licensing, others, including carpenters, do not. This follows the pattern of other Canadian provinces. The licensing requirements for construction trades in Nova Scotia are summarized in Appendix C. The Province of British Columbia is currently investigating the need for improved trades licensing, and others can be expected to follow.

While there is almost certainly merit in improving the quality and licensing of trades, there is little evidence that this will bring a significant improvement in quality in the major areas where problems are currently being encountered. It is also a complex change that will require alignment of responsibilities among the training, certification, and licensing authorities. The certification requirements of specialist sub-trades within a trade will also need to be clarified.

Proposal #1:

For the long term, the province should, as a separate initiative, continue to evaluate improvements to the licensing of trades and bring them into alignment with the certification standards being issued for the various training programs that the industry uses.

Rationale:

There may well be valuable long-term benefits from such changes, which should be made and coordinated with care. However, these are unlikely to yield a significant immediate improvement to homeowner protection and should be seen as an incremental increase in standards over time.

Question:

Would mandatory trades certification and licensing result in improved building quality? Why or why not?

Industry-Wide Factors: Registration of Builders and Developers

Proposal #2:

There should be a requirement for registration of builders and/or developers and for registration of their residential development projects, particularly where these involve large non-Part 9 buildings. This must be coordinated with the municipal issuers of building and occupancy permits so that the latter cannot be issued if the registration is in default.

Rationale:

Any quality improvement program that is to have “teeth” must have a vehicle to include registration, eligibility criteria, and delisting criteria; otherwise enforcement will be problematic. Most other provinces that have implemented improved new home ownership protection have included some form of registration as part of the enforcement process.

Question:

Is mandatory registration of builders and/or developers needed in Nova Scotia? Why or why not?

5.3.2 Design and Construction

Design and Construction: Single-Family Dwellings

Proposal #3:

Generally, protections for purchasers of single-family dwellings and townhouses are adequate, and it should be left to the industry and marketplace to implement incremental improvements.

Rationale:

Single-family dwellings form a large proportion of new home construction in Nova Scotia. There is limited evidence that fundamental improvements are desired or needed in this sector. However, the value of stronger warranty provisions in the observations in the section below related to condominiums should be noted; there may be sound reasons for applying these changes to single-family dwellings also.

Question:

Do you consider that the current processes for new single-family home construction adequately protect the homeowner?

Non-Part 9 (Condominium) Buildings: Design Quality

Proposal #4:

The architectural and engineering professions should review their obligations under letters of undertaking and apply more-stringent monitoring. They should also be required to report compliance failures with the relevant provincial and municipal authorities. In addition, it is suggested that the provincial building code authority should review the structure and contents of letters of understanding.

Rationale:

Although this can be expected to deliver improvements only in the long term, the importance of the professional's role is well defined in building regulations for large, non-Part 9 buildings. The profession's monitoring and strengthening of these undertakings is a necessary part of improving protection for new homeowners.

Question:

Do letters of undertaking for the architectural and engineering professions do the job they are intended to do?

Non-Part 9 (Condominium) Buildings: Inspections

Proposal #5:

There should be a mandatory inspection of the building envelope by a suitably qualified specialist (professional engineer or other designation as appropriate) working at arm's length from the developer, to include assessment of the adequacy of protection from water penetration. This should take place during the early critical phases of the construction process and could be managed through a separate letter of undertaking. Enforcement should be through an improved municipal inspection regime under the municipal permit issuance process.

Rationale:

The building code already requires inspections where mandated by the municipality. Amendments to the building code could clarify the expectation for inspections and address such issues. Prevention is widely recognized as the preferred measure to avoid the subsequent, often very serious, consequences of envelope failure. It is noted that in other provinces where water penetration is a major concern, such inspections have gone a long way to improve building quality. The cost is not expected to be excessively high, and many good-quality builders already engage independent professionals to undertake such inspections as a matter of course.

Question:

Should mandatory third-party building envelope inspection be required in the case of non-Part 9 buildings including all condominiums?

Condominium Buildings: Redress and Warranty

Proposal #6:

There should be mandatory warranty, at least for all condominium buildings. This warranty should include water penetration protection for a period of at least five years. The warranty should be provided by companies at arm's length from the building industry and by companies with sound financial reserves.

Rationale:

Mandatory warranty will be more effective than other means, and strong warranty companies can be expected to put in place additional programs, such as further inspections, rating of builders/developers, and consumer education, as they have in other jurisdictions where warranty is mandated. It would also give warranty companies the right to withdraw the warranty if they are not satisfied with the construction process, thus leading to de-listing and potential cancellation of building and occupancy permits. This can add considerably to the oversight of quality in the construction process.

Question:

What is your view on a mandatory five-year warranty being required in the case of all condominium buildings?

Question:

Should the same mandatory warranty apply to all forms of new home construction?

Question:

What are your views on requiring financial collateral from a developer/builder for a minimum period of five years instead of a warranty?

5.4 Other Homeowner Protections

5.4.1 Protection of Deposits

Proposal #7:

Regulations should require that deposits for new home purchases of any type are secured, through deposits in trust or other equivalent means, to protect the purchaser from failure to complete.

Rationale:

This has been accepted as required change by many consumer groups and organizations and has been implemented in other Canadian jurisdictions as an essential form of protection.

Question:

Should all deposits be secured?

5.4.2 Homebuyer Education

Proposal #8:

There should be a coordinated program of material available to inform the new homeowner of protections available. This should be straightforward, informative, and widely disseminated, and it should be separated from marketing and sales promotion materials. It should also include a checklist to be a component of the final sales process.

Rationale:

New home purchase is a major event and can be a stressful time. Organizations responsible for preparing homebuyer educational materials must recognize this in presenting accurate information and ensuring that it is understood at a time when the purchaser is in a position to make informed decisions. This can go a long way to ensuring that purchasers make use of protections that are available and has proved to be effective in other provinces.

Question:

Should increased homeowner education about homeowner protection be a priority?

6.1 Models of Delivery

6.2 Approaches and Alternatives

Question:

Do you have any comments or suggestions regarding the proposed approaches and alternatives for delivery of homeowner protection?

Additional Suggestions/General Feedback

Question:

Do you have any other suggestions for possible remedies to improve homeowner protection that Service Nova Scotia and Municipal Relations should take into consideration?

