

Buying or Selling an Owner-built Home Information Bulletin



OCCUPANCY AND DISCLOSURE REQUIREMENTS FOR OWNER-BUILT HOMES

An owner builder must occupy their new home themselves for at least one year after obtaining an occupancy permit and are not permitted to sell or rent the new home during that one-year period.

An owner builder who built their home prior to November 19, 2007 must provide prospective purchasers with the old-form Owner Builder Declaration and Disclosure Notice within the first 10 years after occupancy.

An owner builder building under an Owner Builder Authorization (after November 19, 2007) is required to provide an Owner Builder Disclosure Notice, obtained from the HPO, to prospective purchasers within the first 10 years after occupancy. The owner builder must advise the HPO of the occupancy date and the HPO does not release the Disclosure Notice until the one-year occupancy requirement has been verified. Subsequent purchasers are also required to provide the Disclosure Notice if they sell the home within the 10-year period. The Disclosure Notice will state that the home was built under an Owner Builder Authorization, when the 10-year period started, and whether or not there is a voluntary policy of home warranty insurance in place for the home.

STATUTORY WARRANTY REQUIREMENTS FOR OWNER-BUILT HOMES

An owner builder who sells their home within the first 10 years after occupancy are obligated to subsequent purchasers for defects in the new home during that 10-year period. The *Homeowner Protection Act (Act)* and Regulations clarifies that an owner builder's obligations under the statutory warranty are similar to the obligations of a Licensed Residential Builder under a policy of home warranty insurance. That is, two years for labour and materials, five years for defects in the building envelope and 10 years for structural defects.

The statutory warranty enables subsequent purchasers to take legal action against the owner builder to correct defects as set out in the statutory warranty. There are some reasonable exceptions to the statutory warranty (for example, defects caused by someone other than the builder or natural disasters) and these are set out in detail in the *Homeowner Protection Act* and Regulations.

SELLING AN OWNER-BUILT HOME DURING CONSTRUCTION OR BEFORE THE OCCUPANCY REQUIREMENT IS MET

Despite the occupancy requirement for owner builders, the *Act* does allow an owner builder to apply to the HPO on the basis of undue hardship for permission to sell during construction or earlier than 12 months after occupancy.

For homes built under an Owner Builder Authorization, applicants can download an application form from the HPO website at www.hpo.bc.ca and mail in the completed form along with any required supporting documentation and the \$100 processing fee.

Such approvals are not given lightly and conditions may be imposed on any given approval. An owner-built home may not be offered for sale "as is" or sold either during construction or earlier than the 12 months from obtaining an occupancy permit without HPO approval. This ensures that a partially complete or newly occupied owner-built home is not inadvertently sold without the protection of the legislation in place for a new homebuyer. The prohibition applies to new homes at all stages of construction.

NEW HOMES REGISTRY

The easiest way for a realtor or a prospective purchaser to determine whether a home can be offered for sale is to search the HPO's online New Homes Registry at www.hpo.bc.ca. Realtors and prospective purchasers can check the status of a new home or a new home under construction and find out if the home has a policy of home warranty insurance and is built by a Licensed Residential Builder, or whether it is built

without home warranty insurance under an exemption, such as an Owner Builder Authorization. Information available also includes: the name and contact number of the warranty provider, the builder's warranty number and whether an owner-built home can be legally offered for sale.

All homes registered with the HPO on or after November 19, 2007 are searchable on the New Homes Registry. If you are searching for a home registered after July 1, 1999 and before November 19, 2007, or you cannot find a property on the registry, contact the HPO.

ILLEGAL SALES OR LISTINGS

Realtors acting for either owner builders or purchasers can avoid becoming a party to an offence under the *Act* by remembering the following:

- New homes may not be sold or offered for sale without home warranty insurance, a letter of permission for new homes under construction or an applicable exemption such as an Owner Builder Authorization
- Owner-built homes may not be offered for sale or sold without providing the Owner Builder Disclosure Notice to all potential purchasers
- For owner-built homes registered with the HPO since November 19, 2007, Owner Builder Disclosure Notices must be obtained from the HPO and will not be released until the one-year occupancy requirement has been verified or special permission given

The HPO is advised by the Land Title Office whenever the title of an owner-built home is transferred and the HPO pursues enforcement action if the sale is illegal (which may include compliance orders, monetary penalties, court injunctions, or convictions under the *Act*).

Realtors can assist owner builder clients by ensuring that occupancy permit information is filed early with the HPO (owner builders can file using their online account), so the HPO will have time to verify the information and provide an Owner Builder Disclosure Notice well in advance of any offers for sale.

This bulletin is for convenience and does not replace the *Homeowner Protection Act* and Regulations. Those who might be involved in buying or selling an owner-built home are encouraged to visit the HPO website and read the requirements under the *Homeowner Protection Act* and Regulations – section 22 (1.1) and section 20.1.

FOR MORE INFORMATION CONTACT

Homeowner Protection Office

PO Box 11132, Royal Centre
Suite 2270 – 1055 West Georgia Street
Vancouver, BC V6E 3P3

telephone: 604-646-7055

toll-free: 1-800-407-7757

fax: 604-646-7051

email: hpo@hpo.bc.ca

website: www.hpo.bc.ca