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Tarion changes are good for consumers

The Tarion Warranty Corp. has introduced a number of program changes which will benefit consumers by providing better disclosure of extra charges in builder sales agreements.

By law, every agreement of purchase and sale for a new home or condominium must contain a lengthy disclosure statement called an addendum. Tarion has now introduced a new schedule to be added to every addendum.

The attachment, called Schedule B, has two separate parts. Part I is titled Stipulated Amounts/Adjustments. It will contain in one place an itemized list of all charges, fees or other adjustments to the final purchase price or balance payable on closing, where the dollar value is set out in the builder's agreement of purchase and sale.

The description of the charges can be brief summaries, but there will be a reference to the relevant section of text in the purchase agreement.

Charges listed in this section may be items such as the Tarion enrolment fee, a charge for holding the purchaser's deposits in trust, a fee to discharge the builder's construction financing, the builder's \$73.45 transaction levy payable to the Law Society, and a fixed charge to subsidize the builder's legal fees.

Part II of the new schedule is headed "All other adjustments — to be determined in accordance with the purchase agreement."

This will set out all additional charges, fees or other anticipated adjustments to the final purchase price, which are to be calculated after the purchase agreement is signed, according to the written terms of the agreement.

For condominium purchases, charges in this section may include items such as:

- The unit's proportionate share of the cost of installation of gas, hydro, sewers and water service and meters in the project.
- Any new taxes, levies or development charges imposed on the unit by any level of government after the agreement was signed.
- A levy against the unit for parks, public artwork or other municipal charges,
- HST on the value of the appliances included with the unit.
- Interest on the balance of the purchase price from the day of final closing to the next banking day.
- The amount of any increase in municipal, education or transit development charges imposed after the project went on the market.
- A portion of the costs associated with a development agreement entered into with the city.
- A portion of the building's first common elements study.

Each charge will be cross-referenced back to the appropriate text in the purchase agreement so buyers can determine whether it is unlimited or capped at a particular amount.

Assembling all the open-ended charges in one place should alert purchasers to the additional financial risks involved in signing the agreement, and remind them to obtain a written cap or maximum amount on all of the charges.

Schedule B became optional for builders on July 1, and on October 1 it will become compulsory for all homes and all condominium projects where the first purchase agreement is signed on or after that date.

These changes were all endorsed by Tarion's Consumer Advisory Council (which I chair), as well as Tarion's board of directors and senior staff.

Another significant change to the Tarion warranty came into effect on July 1. It affects all new houses sold after that date and all condominium units where the first purchase agreement in the project was signed after that date.

A new definition of "major structural defect" has been implemented by regulation. For covered homes, the warranty program now protects purchasers against a defect in work or materials if it results in a failure of a structural load-bearing element, or adversely affects the use of the building for the usual and ordinary purposes of a residential dwelling.

Breakdown of mechanical equipment like a furnace, where the builder has no control over its manufacture or ongoing functionality, will now rest solely with the manufacturer, either through the original warranty or ongoing service contracts.

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