

Buying a Home from a Builder

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Buying a new house, condominium or townhouse directly from the builder can be confusing, especially for a first-time purchaser. The builder will usually require you to sign the builder's form of agreement of purchase and sale (the "Agreement"). Because these Agreements are lengthy and drafted strongly in the builder's favour, it is very important to have a real estate lawyer review the Agreement before you sign it. You can make your purchase conditional on your solicitor's review of the Agreement. This article outlines some of the issues with builder's Agreements.



Reviewing the Agreement

If you are purchasing a new condominium, you can rescind the Agreement and receive a full refund of your deposit, with interest, within 10 days from the date you received copies of the accepted Agreement and Disclosure Statement. The notice of rescission must be in writing and received by the builder or the builder's lawyer within the 10-day period. You should have a real estate lawyer review the Agreement and Disclosure Statement to advise you of your legal obligations and recommend appropriate changes to the Agreement. The Disclosure Statement includes important information about the proposed condominium project, including the proposed budget and common expenses.

There is no 10-day rescission period when purchasing a freehold home. Many home builders insist that you sign an Agreement on the spot to secure your sale price or lot selection. If you cannot avoid this situation, you should insist on adding a clause to the Agreement making your purchase conditional on your solicitor's review and approval of the Agreement.

Closing Costs

Hidden extra costs payable on the closing date, such as fees for connecting utility services, development charges and mortgage discharge fees, can amount to hundreds or even thousands of dollars. These closing costs are listed in the Agreement as adjustments to the purchase price and are usually estimated figures at the time of signing the Agreement. On reviewing the Agreement, your lawyer can try to negotiate a cap on certain closing adjustments and seek to have others removed.

Important Dates

The Agreement includes such critical dates as the occupancy and closing dates. The occupancy date is the builder's estimate of when the property will be ready for you to move in. The closing date is the date that title to the property is transferred to the purchaser. If a builder requires an extension, the purchaser can either agree and seek compensation, or get out of the deal. You should seek legal advice whenever a builder asks to delay a critical date.

HST Rebate

HST is charged on new homes or new condominiums. Typically, builders will add the HST to the purchase price less any applicable rebates, which the builder will require to be assigned to it on closing. Purchasers may qualify for one of the two distinct HST rebate programs. The HST New Housing Rebate is limited to buyers of new or substantially renovated homes and condominiums as their primary place of residence. The HST New Residential Rental Property Rebate is available to those buying a new home or new condominium as an investment. A real estate lawyer can help you determine whether you qualify for a rebate.

Lawrences' Real Estate Group has extensive experience in reviewing new home Agreements and closing new home purchases. We can advise you of your obligations under an Agreement, help you negotiate some of the terms and complete your purchase.



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