

**GUIDELINES FOR NEW HOME BUILDERS AND RENOVATORS
TO ASSIST THEM IN MEETING REALISTIC BUYER EXPECTATIONS**

Canadian Home Builders' Association

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- Alberta New Home Warranty Program, particularly from the following publications: “from purchase to possession and beyond” and “The Way Home: Your New Home Buying Condominium Guide”.
- Canada Mortgage and Housing Corporation, particularly from “Homeowner’s Manual”.
- Home Owner Protection Office.
- Tarion, including “Construction Performance Guidelines”.

INTRODUCTION

Background

Research carried out by the Canadian Home Builders' Association (CHBA) in 2004 reached the following broad conclusions:

- The public has little understanding of the housing industry or the housing product.
- Some consumers' expectations with respect to house construction and service are not being met.
- Customers are looking for guidance through the complex process of home buying.

These findings generally pertain to new home buyers and households that purchase renovations.

CHBA and other housing and related organizations such as home warranty companies recognize the need for consumer-oriented information on the home buying/construction process and provide a significant amount of it. Many new home builders and renovators communicate well with their consumers and provide them with helpful information. However, some do not or they require guidance on the type of information that would be helpful to consumers.

Objectives

While consumers want builders to meet their expectations, analysis of research and experience also shows that many consumers do not understand what they should expect or what is realistic. This suggests the need for guidelines for new home builders and renovators to help them meet the following objectives:

- To meet realistic buyer expectations.
- To clarify buyer expectations.

The guidelines presented below are intended to meet these objectives.

Expected Benefits from the Guidelines

These guidelines are expected to yield the following benefits:

- Reduced buyer frustration due to greater understanding of the buying/construction process and improved understanding of realistic expectations.
- Reduced builder frustration and business costs because of greater customer satisfaction.
- Greater consumer participation in the housing market because of increased understanding of the buying/construction process and related issues, such as housing affordability.
- Improved housing performance due to improved consumer understanding of home operating and maintenance requirements.

Scope and Focus of the Guidelines

The scope of the guidelines can be described in terms of period, the tenure of housing and the prime target audience to which they apply. The scope and focus of the guidelines are as follows:

- **Period of application:** Based on research results, the period of application extends from a builder's early contact with a customer to the end of a builder's warranty and after-sales service period.
- **Tenure:** The guidelines apply to both fee simple and condominium tenure because both are prevalent and each has some distinct requirements in terms of clarifying and meeting buyer expectations.
- **Target audience:** The guidelines apply to new home builders and renovators because both occupations are significant in the housing industry and buyer expectation issues apply to both.

Research results indicate that one focus of the guidelines should be customer service (because of the significant level of buyer dissatisfaction with it). The following criteria also identify a focus of the guidelines:

- Topics believed to be those that buyers may not understand and that contribute to builder-buyer misunderstandings and/or buyer disappointment and that builders can affect are included.
- Topics where the responsibilities of key players, including those of the buyer, may not be well understood are included.
- Most topics that are included are the responsibility of the builder but some conditions that affect the performance of the home and are wholly or partly the homeowners' responsibility are also included.
- The proposed guidelines do not duplicate technical guidelines contained in other documents.

Organization

The guidelines are organized as follows:

- **General applicability:** These generally apply to new home builders and, to an extent to renovators, and to fee simple and condominium ownership.
- **Special applicability:** Those guidelines that apply only to renovators and condominium tenure will be presented separately.
- **Organization:** Since most topics of relevance vary by phase of the buying/construction process, both general and special guidelines will be organized by phase to increase their readability and usefulness. The following chronological phases will be used:
 - General.
 - Initial discussions.
 - Contract negotiations.
 - Construction.
 - Pre-delivery inspection.
 - Explaining home operations and maintenance.
 - Possession.
 - Post-possession.

Some topics may be relevant at more than one phase and require different levels of detail in different phases. This means that guidelines on some topics may be repeated but at different levels of detail.

GUIDELINES GENERALLY APPLICABLE TO NEW HOME BUILDERS AND RENOVATORS, AND FEE SIMPLE AND CONDOMINIUM OWNERSHIP

The following guidelines have been allocated to the phases of the buying/construction process listed above. Some new home builders and renovators may choose to discuss some topics at different times than those suggested.

General Guideline

New home builders and renovators should have open communications with their customers throughout the period of working with them. In particular, this guideline applies from the construction phase to the post-possession phase.

Guidelines at the Initial Discussions Phase

This phase generally pertains to the period from the time a buying decision is made to contract negotiation phase.

New home builders and renovators should discuss the following topics with customers:

- Standard features and available upgrades.
- Construction quality and methods of control construction quality.
- Initial overview comments about various legal issues, including the following:
 - Purchase and/or construction agreement.
 - Mortgages, e.g., lawyer's duties, registration requirements, conditions for disbursements.
 - Conditions for, and timing of, title transfer.
 - Conditions and process for possession.
- Initial overview comments on site visit policy.
- Initial overview comments about warranties, i.e., builder's warranty, manufacturers' warranties and third-party warranty.
- Initial overview comments on after-sales program.
- Initial overview comments on builder's and owner's roles and responsibilities.

Guidelines at the Contract Negotiations Phase

New home builders and renovators should discuss the following topics with customers:

- Legal implications (binding effects) of an offer.
- Lawyer's role.
- Main elements of a contract:
 - Distinguish between purchase agreement (agreement for purchasing land and house) and construction agreement (house on land owned by the purchaser).
 - Purchase price.
 - Plans and specifications.
 - Inclusions.

- Allowances.
 - Extras/upgrades.
 - Payment milestones.
 - Builder’s refund policy.
 - Third-party deposit warranty/protection.
 - GST rebate.
 - Closing date.
 - Method for handling delays.
- Additional costs of purchase: mortgage application fee, appraisal fee, survey or title insurance fee, mortgage insurance application fee, mortgage insurance premium, legal fees, water certificate for well (if required), legal service fees, land (title) transfer taxes, adjustments (property taxes), home insurance, hook-up service, major appliances (if applicable), window coverings, etc.
 - Evidence of builder’s compliance with legal, regulatory and business requirements, particularly those offering consumer protection:
 - Contractor’s liability insurance.
 - Workers’ Compensation Board (WCB) requirements.
 - Warranties.
 - Bonding requirements where required by law.
 - Business licenses.
 - Procedures for resolving disputes and conditions for parties to be released from the contract.
 - Responsibility for obtaining permits.
 - Lien legislation and regulation, where applicable.
 - Business Numbers (or GST/HST number).
 - New home builder certifications.
 - Change orders: methods and conditions for making changes.
 - General explanation of warranties.
 - General explanation of after-sales service policy.

Guidelines at the Construction Phase

New home builders and renovators should discuss the following topics with customers:

- Approval process.
- Explanation of applicable codes, especially building code and plumbing code, i.e., what it is and what it is not.
- Construction process, including comments on the trades and occupations involved and the sequence of construction tasks.
- Buyer selection of finishes.
- Construction coordination and control, focusing on quality control and scheduling.
- Inspections by authorities having jurisdiction and by the builder.
- Construction site visiting policy.

Guidelines at the Pre-Delivery Inspection (PDI) Phase

This phase is at the end of construction when the customer is getting ready for possession. New home builders and renovators should discuss the following topics with customers:

- Construction performance standards/guidelines: These are generally guidelines developed by warranty corporations. Comments should include the following topics:
 - Role of a warrantor’s construction performance standards/guidelines, i.e., typically it is to provide advance information as to how a warrantor will decide disputes between builders and homeowners about defects in work or materials.
 - Coverage of a warrantor’s construction performance guidelines, including surface water management guidelines, particularly lot grading requirements.
 - Industry tolerances.
- Pre-delivery inspection: This should include the following topics:
 - Role of the PDI, i.e., to prepare a record on the conditions in a consumer’s home before their move-in.
 - Coverage of the PDI, i.e., defects (inadequate work or non-functioning items) and deficiencies (incomplete items).
- Warranties and their coverage:
 - Builder’s warranty.
 - Manufacturers’ warranties.
 - Third-party warranty.Reviews of these warranties should also include procedures for making claims and recourse options.
- Expected first year incidents/developments, e.g., nail pops, minor cracks, and soil settlement, including new home builder and homeowner responsibilities.
- After-sales service program: This should explain the builder’s and the homeowner’s responsibilities, and the conditions and procedures of the after-sales service program.

Guidelines for Explaining Home Operations and Maintenance

This phase is at the end of construction when the customer is getting ready for possession. New home builders and renovators should discuss the following topics with customers¹. The presumption is that the builder will provide the homeowner with a homeowner’s manual.

- Rationale for home maintenance: Increase house durability and avoid costly repairs over time.
- Overview of the house components, including the building envelope (foundation, walls, windows and roofs) and mechanical systems (heating, air conditioning and ventilation).
- Concept of “house-as-a-system”: This commentary would illustrate the interdependence of house elements, equipment and dwelling environment conditions.
- Controlling the indoor environment/conditions: This could include the following topics:
 - Controlling moisture.
 - Maintaining indoor air quality in a dwelling.
 - Achieving energy-efficient operations.

¹ Many of the topics are drawn from CMHC’s Homeowner’s Manual.

- Preparing and responding to emergencies, e.g., fire, floods, theft and gas leaks.
- Requirements to maintain warranty, e.g., reporting requirements.
- Likely occurrences in the first year and appropriate responses, e.g., soil settlement, driveway settlement, foundation cracks, leaching, hairline cracks in stucco, nail pops, visible seams in resilient flooring, etc.
- Maintenance and operating tips on the main elements, materials and systems in a dwelling:
 - Site, e.g., lot grading and drainage issues, including homeowner responsibilities, landscaping and driveways; also information on boundaries, easements and utility locations.
 - Foundation and basement, e.g., drainage and soil height, sump pumps and teleposts.
 - Roof, outside walls and exterior features, e.g., care and maintenance of roofs, wood, vinyl, metal, fibreboard or other siding and trim, masonry and stucco; also of eavestroughs, exterior stairs, porches, decks and garages.
 - Doors and windows.
 - Interior finishes, e.g., care and maintenance of hardwood, resilient, stone, ceramic and carpeted flooring; also of drywall, countertops and cabinets.
 - Heating ventilating and air conditioning equipment: operating and maintenance guidelines (including safety guidelines where relevant) for applicable items, including the following:
 - Furnaces: natural gas, oil, electric, propane, integrated heating and hot water system, or whatever other equipment is used.
 - Other heating devices: electric baseboard heating, wood or gas fireplace or stove, or other equipment that is used.
 - Heating and cooling systems: heat pump.
 - Cooling systems.
 - Distribution systems, e.g., ducts, grilles and dampers.
 - Thermostats, including programmable thermostats.
 - Ventilation systems, e.g., exhaust fans, heat recovery ventilators.
 - Plumbing and hot water systems: operating and maintenance guidelines for relevant items, including the following: shut-off valves, hot water tank, faucets, drains and traps, sinks, tubs and shower enclosures, toilets, outside faucet, well-water supply system (where applicable) and septic system or holding tank (where applicable).
 - Electric system: operating, safety and maintenance guidelines for electrical items, including ground fault circuit interrupters and circuit breakers.
 - Other maintenance requirements required by manufacturers of other equipment, such as appliances.
- Home maintenance schedule.

Guidelines at the Possession Phase²

New home builders should explain the main steps in the closing process to customers:

- Execution of mortgage documents.
- Transfer of title.

² These steps are drawn from materials published by the Alberta New Home Warranty Program in a publication titled, “from possession to purchase and beyond”.

- Real property report, if required.
- Statement of adjustments.
- Final payment.
- Turnover of keys.

Guidelines at the Post-Possession Phase

New home builders and renovators should discuss the following topics with customers:

- Plans for remedying defects and deficiencies.
- After-sales service program.
- Terms (coverage, requirements and procedures) of all warranties (builder's, manufacturers' and third-party warranty).
- Typical and likely occurrences in the first year of occupancy.
- Buyer responsibilities, including homeowner responsibilities for maintaining proper lot grading.

SPECIAL GUIDELINES FOR CONDOMINIUM DEVELOPERS

The guidelines in the previous section generally apply to condominium buyers. The following guidelines are intended to highlight guidelines that are particularly relevant to condominium buyers. Relevant guidelines are allocated to a phase in the buying/construction process to which they apply. Condominium developers may choose to explain some guidelines at different phases than those suggested.

Guidelines at the Initial Discussions Phase

Condominium developers should explain the following topics to customers:

- Condominium concepts, e.g.:
 - Types of condominiums: regular condominium, freehold condominium, bare land condominium.
 - Private and common elements.
 - Unit factor.
 - Exclusive use.
 - Reserve fund.
 - Disclosure statement.
- Condominium usage and operations, e.g.:
 - Occupants per unit.
 - Rental rights.
 - Use of amenities.
 - Pets.
 - Condominium board.
 - Bylaws.
 - Security.

- Maintenance responsibilities of individual owners and the condominium corporation.
- Condominium costs and fees (in addition to typical costs for fee simple tenure), e.g.:
 - Utility hook-up fees.
 - Landscaping fees.
 - Condominium fees and their coverage.
 - Reserve fund build-up.
 - Occupancy fees from occupancy closing to title closing, i.e., estimated common expenses, estimated realty taxes, interest on balance due on closing.
- Consumer protection:
 - Warranties for private and common property.
 - Insurance requirements of the condominium corporation and of unit owners.

Guidelines at the Contract Negotiations Phase

Condominium developers should explain the following topics to customers:

- Disclosure statement (builders should suggest to buyers that a lawyer explain this to them, as well).
- Organizational requirements of condominiums: condominium board, roles of directors, requirements for an annual general meeting (AGM), etc.
- Bylaws and their areas of applicability, e.g., governance, corporate and financial responsibilities of the condominium board, rights and restrictions impacting on people, pets, owners and lifestyle of unit owners.
- Interim occupancy agreement (permits occupancy before the title is registered, compensates the developer until the title is registered and advances mortgage funds).
- Reservation/reservation agreement (reserves a consumer's right to buy a unit later).
- Right of rescission (right to rescind a purchase agreement within a period related to the receipt of disclosure documents).

Guidelines at the Pre-Delivery Inspection (PDI) Phase

Condominium developers should explain the following topics to customers:

- Common elements warranty.
- Responsibility for completing an inspection of the common elements of the condominium.

Guidelines at the Possession Phase

Condominium developers should explain the following topics to customers:

- Requirement for registration of the condominium plan as a condition for buyers getting title.
- Occupancy permit.
- Substantial completion.

Guidelines at the Post-Possession Phase

Condominium developers should explain the following topics to customers:

- Owners' control of the condominium corporation at the AGM.
- Procedures for remedying defects and deficiencies of the common property.

SPECIAL GUIDELINES FOR RENOVATORS

Measures that Acknowledge Distinct Construction Challenges and Constraints for Renovators

Renovators should review and make arrangements with customers for the following:

- Allowances and procedures for changing the scope of work in response to encountering unforeseen circumstances.
- Storage of building materials and equipment.
- Site clean-up.

Protection and Consideration of Customers

Renovators should discuss and make arrangements with customers to achieve the following conditions during the renovation process:

- Minimum disruption of a customer's home life.
- Health and safety of an owner's family.
- Security of an owner's home and belongings.

Regulatory and Insurance Issues

A distinguishing feature of renovation work is that renovators usually build on an owner's land. The form of agreement is therefore a construction agreement (rather than a purchase agreement which applies when a buyer buys the land and dwelling). In this case, the renovator should provide information to customers that protect them from risks due to the renovator's work and clarifies responsibilities for various tasks, including the following:

- Liability insurance.
- WCB coverage.
- Responsibility for obtaining permits.
- Lien holdback requirements (where relevant).
- Warranty details.
- Business license.
- Business (or GST/HST) number.

Confirmation of these conditions could be included in the construction agreement.

The renovator should also inform the owner that they must check with their home insurance providers about any extra coverage required during the renovation work.