



NEW HOME & CONDO PURCHASES

June 2011

- Cooling Off Period
- Deposits
- Delays
- Finishes and Upgrades
- HST
- Closing Costs
- Tarion
- Condos – Interim Occupancy
- Post Closing

COOLING OFF PERIOD

- Typically 15 – 30 Legal Pages
- Solicitor's Review
- 10 Day Cooling Off Period – Condominium Act
- Most new home agreements also include a Cooling Off period
 - cap on closing costs
 - assignment clauses
 - Extras to be included

- Multiple Deposits
 - Typically 30, 90, 120, 180 days
 - At Interim Occupancy
 - Refundable if Builder does not close
- Upgrades – non refundable
 - Typically more expensive than after-market
 - Consider only things too difficult to install after

- Houses & Condos – up to 2 years late
- Buyer can rescind – only during 30 day window after expiry of “Final Tentative Occupancy Date”
- Can create problems vis a vis existing home sale or rental
- No right to return of \$ for upgrades
- No Assignment/Sale/Lease without consent of Builder
 - Builders don't want to have to get rid of tenant if Buyer does not close

FINISHES AND UPGRADES

- Change elevation/grading, layout
- Substitute materials (comparable)
- Substitute finishes
- Change plans – bulkheads, HVAC (not material changes)
- Can choose finishes if Buyer does not choose when required
- Upgrades usually to be paid when ordered
- Upgrades don't have to be completed – money is returned

- H.S.T. is payable on new construction
 - Buyer assigns H.S.T. rebate to builder as part payment of purchase price
 - **indemnifies builder if Buyer does not qualify for GST Rebate**
 - $\text{Net PP} + \text{HST} - \text{HST Rebate} = \text{Purchase Price}$
- PST Rebate = up to \$24,000 (6% of 1st \$400k)
- GST Rebate = ~35% of GST – no rebate if PP is above \$450k
- Buyer may be liable for up to ~\$29,000

- **ONTARIO AND TORONTO LAND TRANSFER TAX**
 - Based upon the consideration price of the property (0.5% - 2%)
- Up to \$2,000 Ontario Land Transfer Tax and \$3,725 MLTT Rebate for first time home buyers applies - Buyer and spouse have never owned land anywhere in world.
- No Right to withhold for Unassessed Realty Taxes

OTHER CLOSING COSTS

- **Typically ~ \$5,000 - \$8,000 (as high as \$30,000)**
- Tarion New Home Warranty (\$1,000)
- Tree Planting Charge
- Development Charges (eg hooking up to sewers, water) – potentially very expensive
- Meter Hook Up Charges (Gas, Hydro, Water)
- Hot Water Tank/Heat Pump Rental
- Upgrades (in advance or at closing)
- \$75 Law Society Levy (Seller's lawyer costs)
- Mortgage discharge fee - ~\$200
- Cheque cashing fee \$150 - \$300
- NSF Charges
- Education levies
- Interest on Deposits
- Estimated Property Taxes

TARION NEW HOME WARRANTY

- Provides protection to buyers of new homes and condominiums
- Does NOT apply to houses re-built upon existing foundations OR condo conversions
- Protects against deficiencies in workmanship and materials (electrical, HVAC, plumbing, mechanical and structural)
- Protects deposits
 - \$40,000.00 on new homes
 - \$20,000.00 on new condominiums
- Pre-Delivery Inspection
 - very important to be thorough and methodical
 - Can use Home Inspector during P.D.I

CONDO - INTERIM OCCUPANCY

- Condo is ready for occupancy – building not registered
 - Can take 6 mos to 18 mos to register
- Buyer becomes a tenant of his own unit
 - Can be Buyer or immediate family member
 - Lying can negate HST Rebate
- Post dated cheques for 12 months
 - Notional interest on balance of purchase price
 - Estimated Maintenance/Common Area Costs
 - Estimated Realty Taxes

CONDO - FINAL CLOSING

- Buyer pays balance of purchase price
- Obtains Title to Property
- Mortgage gets registered
- Buyer can sell without consent

- Right of Re-entry for Builder to complete work – PDI
- Grading (up to 2 years after)
- No Basement Finishing for 2 years
- Driveway Paving
- Sod
- Trees

COHEN

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