

ASK THE INSPECTOR COLUMN FOR OCTOBER 12, 2016

HEADLINE: TARION INTENDS TO STEP UP ON ILLEGAL HOMES

Over this past year we have been asked to inspect a couple of homes “built by owner.” On arrival, I’ve asked the buyer if the home has the new home warranty on it and the answer has been, “No, he built it for himself and now he’s found another lot that they like better.” I’ve seen this answer numerous times in the past. In every case, the owner knew full well what he was doing to avoid registering for a new home warranty.

Becoming a registered builder is both time consuming and costly and, as of September 1, 2016, it got a whole lot harder. Along with a lengthy application for Tarion registration, which includes extensive financial information, the applicant must now complete seven education competencies. These competencies include Business Planning and Management, Financial Planning, Project Management and Supervision, Legal Issues in Housing, Building Codes of Ontario, Construction Technology and Customer Service and Tarion Requirements. Anyone who thinks that they are already competent can apply to Algonquin College to write the assessment exam.

So where does this leave the average person who wants to build his/her own home? While you are permitted to build your own home, there is a process you must follow in Ontario. If your home is not going to be registered with Tarion, you must have a “Letter of Confirmation.” In some municipalities they have actually taken this to the next step where they will not issue a building permit unless you have either a Tarion Registration Number or a Tarion Letter of Confirmation. Nearby Belleville is one such municipality. After chatting with a couple of building officials in other cities and townships, I’ve learned that they are going to set the same rule very soon.

So what is a “Letter of Confirmation?” It’s a document, issued by Tarion, which states that Tarion has determined that the applicant does not need to register with them and that the home meets the home exemption requirements. This letter “may” be approved if the proposed home is to be built on land the builder currently owns and will be occupied by him/her prior to sale. Further, the home will be built to part 9.36 of the Ontario Building Code. An “Owner Built Home” may not meet the requirements of the New Home Warranty Act, which protects buyer’s deposits, compensation in the event of builder insolvency, delays in closing and occupancy, along with the statutory 1-2-7 year warranty provisions.

It will be up to the home built homeowner to exercise control over every step of construction, including overseeing sub trades, establishing contracts and reviewing, approving and directing all work and materials used to build the home. You are responsible for all workplace safety and applicable insurances, which includes responsibility for the workers on your site. You must, as well, obtain the correct permits and visitations as required by the municipality, along with applicable hydro and electrical permits.

In order to get a Letter of Confirmation, you must complete the entire application along with all the required documentation. Included is a Project Management contract, if applicable, and proof of land ownership with a copy of the land title. This process is expected to take up to five days once the completed application is received at Tarion. Once you have an approved letter in your hands, then you can apply for your building permit.

This letter of confirmation is not a rubber stamp process. If Tarion believes that the home does not fit the parameters of the requirements, they will reject the application. You can only apply for one letter of confirmation at a time and, if Tarion believes this process is being abused, they may conduct an investigation into the applicant.

There is one other step that now covers major renovations and this sets a level for a home with an existing foundation. If the home has 40% of the existing foundation present, to be determined by the local building official or by linear measurement (footprint) of the home, then the home does not qualify for coverage under the act. There is a complete appendix at the Tarion web site as to the determination of an existing foundation.

In the event the home is listed for sale without the homeowner/builder legitimately residing in the home, (currently, from what I know, this is two years from the date of occupancy permit being issued) the home must be registered with Tarion. If the home is sold without this registration, Tarion can proceed with prosecution against the homeowner/builder under the Act.

The recent changes also affect real estate agents. If they are selling new homes, they must register themselves. If they are involved in the sale of an unregistered new home, both Tarion and the Real Estate Council of Ontario will investigate further. The other government institution that will show an interest is Canada Revenue Agency; a little matter of HST due on the home sale.

Over the years, I have seen dozens of home owner built homes and it seems that they are either built way beyond the code or simply minimum at best. These minimum at best homes are usually the ones being sold quickly. Hopefully, this

new requirement will stop some, if not all, of this practice from continuing, as it has adversely affected far too many buyers who simply did not understand what they were buying.

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