

## **Tarion amends registration rules for new home “flip”**

REALTORS® who deal in new home and condominium sales take heed: there are new provisions for registering vendors with Tarion Warranty Corporation.

When a person purchases a new home from a builder, but never occupies it and then resells it, they are required to be registered with Tarion. Under Ontario's New Home Warranty Act anyone who sells a new house in Ontario without registering it with Tarion is liable to a fine of up to \$25,000, a sentence of up to one year in jail, or both. Previously, registration meant completing a detailed vendor/builder agreement, paying a \$600 fee, undergoing a financial review and posting a \$10,000 performance bond – even though the house was already covered by the builder registration.

However, Tarion, which administers the Act and provides new home warranty coverage to most new houses and condominiums in the province, has changed its registration requirements for purchasers who resell (or "flip") their homes without moving in.

The new approach to dealing with resellers of new homes means the usual detailed vendor/builder agreement is not used. Instead, Tarion has introduced a letter agreement that the new sellers must provide to the ultimate purchaser with a disclosure page that contains information such as: a statement that the sale is effectively a resale, disclosure of the original warranty start-date, the status of the remaining warranty coverage, and contact information to enable the purchaser to check on the status of any claims made in respect of the home. REALTORS® representing resellers in this situation can obtain the agreement form from Tarion and use it as a schedule to the listing and the Agreement of Purchase and Sale.

In its Application for Registration – Resellers (Resellers/Flippers) form, Tarion defines a resale or flip as: “A resale or ‘flip’ involves a scenario where the purchaser of a new home (“Reseller”) does not personally occupy the home but, instead, sells it to another purchaser. This can occur in a number of different ways, including, for example: (i) A condo investor who resells to a new purchaser on the same day that the original transaction (between the vendor/builder and condo investor) closes; or (ii) A purchaser who buys a home but for various reasons (e.g., divorce, change of job), never occupies the home and resells it later, perhaps after many months. Applications by reseller/flippers will be processed in a ‘fast track’ manner. This is for the true reseller/flipper only, not for repeat offenders or illegal Vendors (charged by Enforcement). The reseller/flipper will have to complete the application form, Vendor Agreement and submit the \$350 fee. If the home is already enrolled it does not need to be re-enrolled (it will remain under the original Vendor/Builder).”

Mitchell says registration can be processed “usually within two working days. The form is available through the Tarion call centre or can be picked up at the Tarion office in person.

Although the reseller (or “Vendor”), as defined under the Act, is responsible for obtaining the registration package when flipping a new home, REALTORS® representing resellers need to ensure clients are aware of these requirements to protect themselves from liability. One of Tarion's enforcement officers sent a letter to a salesperson involved in an unregistered new house flip under investigation. It highlighted the REALTOR®'s obligation under the Code of Ethics. It read:

“If the REALTOR® is acting for such a vendor then I would believe they would have a responsibility under their Code of Ethics if they were to advise such a vendor that it is ok to sell under these conditions or did not act when advised by us that the vendor of the unit they are selling is unregistered, they could possibly be opening themselves up to charges of Counselling or Aiding and Abetting.”

But Tarion says they rarely need to enforce these regulations and that the small percentage of offences usually occur in rural areas. “The reseller registration requirements are there to protect the consumer who may not know they are essentially buying a resale home,” says Rob Mitchell, Director, Industry and Government Relations, Tarion Warranty Corporation. “Buyers need to know they have some recourse should any problems arise with the home within the warranty period.”

Buyers should contact Tarion if they have any doubts about a new home's registration status or misunderstanding about what's covered under the warranty program.

For more information, visit [www.tarion.com](http://www.tarion.com) or call 416-229-3844 or 1-877-696-6497.