



Date Issued: January 12, 2005
Subject: Exemption from Homeowner Protection Act
Requirements
Reference: ILBC documents as noted
Page: 1 of 5

SUBJECT:

Exemption from Homeowner Protection Act Requirements for social housing projects.

PURPOSE:

To revise Independent Living BC (ILBC) program documents, as noted herein, to reflect changes to the Homeowner Protection Act Regulations.

BACKGROUND:

Effective July 28, 2004 amendments to the Homeowner Protection Act Regulations came into effect. A summary of these changes is available on the Homeowner Protection Office (HPO) website at:

<http://www.hpo.bc.ca/WhatsNew>

In summary:

- Social housing projects are now exempt from the requirement to obtain a home warranty;
- Social housing projects were previously, and continue to be, exempt from the reconstruction levy.
- The building will be required to have a covenant registered on title that confirms the building will be used for rental purposes and restricts the sale of the building to other than a single owner for 10 years after the occupancy of the first dwelling unit.
- Social housing projects are still subject to builder licensing requirements.

The exemption from the home warranty requirement is addressed in the revisions to the ILBC documents, listed in REFERENCE below.

REFERENCE:

1. *Independent Living BC Non-Profit Housing Design and Construction Standards* (ILBC Standards), 2003, Appendix A - Supplementary General Conditions to the Stipulated Price Contract CCDC2 – 1994 Design Tender Agreement.
2. *Independent Living BC Non-Profit Housing Design and Construction Standards* (ILBC Standards), 2003, Appendix B - Supplementary General Conditions to the Stipulated Price Contract CCDC2 – 1994 Design Build Agreement.
3. *BC Housing Public Tendering Guidelines for Non-Profit Housing*, Appendix 1 – Instructions to Bidders.
4. *ILBC Non-Profit Housing Program Guidelines*, Appendix C - Real Estate Considerations.

Date Issued: January 12, 2005
Subject: Exemption from Homeowner Protection Act
Requirements
Reference: ILBC documents as noted
Page: 2 of 5



DESCRIPTION:

1. Appendix A - Supplementary General Conditions to the Stipulated Price Contract CCDC2 – 1994 Design Tender Agreement:

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK (refer to page 245)

DELETE:

“5.4.1.11 Home Warranty certificate in accordance with Homeowner Protection Act requirements.”

2. Appendix B - Supplementary General Conditions to the Stipulated Price Contract CCDC2 – 1994 Design Build Agreement:

ARTICLE A-1 THE WORK (refer to page 261)

DELETE:

“1.7.8.2 proof that the *Contractor* has enrolled the units to be constructed in a home warranty insurance program (provide name of home warranty insurance provider and the policy number(s) for the units); and”

ARTICLE A-4 CONTRACT PRICE (refer to page 263)

DELETE:

“4.6.12 home warranty insurance from a warranty provider authorized by the Financial Institutions Commission;”

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK (refer to page 276)

DELETE:

“5.4.1.11 Home Warranty certificate in accordance with Homeowner Protection Act requirements.”

Date Issued: January 12, 2005
Subject: Exemption from Homeowner Protection Act
Requirements
Reference: ILBC documents as noted
Page: 3 of 5



3. *BC Housing Public Tendering Guidelines for Non-Profit Housing, Appendix 1 – Instructions to Bidders*

REVISE: (refer to page 24)

Homeowner Protection Act

“This clause advises Bidders that they are required to be a licensed residential builder as defined by the Homeowner Protection Act Regulations.

Note that provincial social housing projects are exempt from the requirement to obtain a home warranty and pay the reconstruction levy, subject to compliance with the requirement of the Homeowner Protection Act Regulations to register a 219 covenant on title confirming that:

- the project will remain rental;
- no individual dwelling units will be sold for a period of 10 years from the date of occupancy of the first dwelling unit.

The architect should confirm with the Owner that this exemption has been obtained for the project. A detailed description of the home warranty exemption process is described in revisions to the *ILBC Non Profit Housing Program Guidelines, Appendix C - Real Estate Considerations*. ”

Note: Refer to item 5 in this Bulletin.

4. *BC Housing Public Tendering Guidelines for Non-Profit Housing, Appendix 1 – Instructions to Bidders*

19.0 HOMEOWNER PROTECTION ACT

DELETE (second bullet, and last paragraph; refer to page 32):

- “after the “Notice of Award” letter has been issued, proof that the Contractor has enrolled the units to be constructed in a home warranty insurance program administered by a warranty provider accepted by the *Owner* and *BC Housing* (provide a copy of the Homeowner Protection Office *Registration Form, Multi-unit Building*). The Contractor shall be responsible for all costs associated with enrolling the units in a home warranty insurance program (“licensing fee”). The Owner shall be responsible for the payment of the home warranty premium.

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Date Issued: January 12, 2005
Subject: Exemption from Homeowner Protection Act
Requirements
Reference: ILBC documents as noted
Page: 4 of 5



ADD, after the first bullet (refer to page 32):

“Note that provincial social housing projects are exempt from the requirement to obtain a home warranty and pay the reconstruction levy, subject to compliance with the requirement of the Homeowner Protection Act Regulations to register a 219 covenant on title.”

NOTE:

The current versions of the Supplementary General Conditions to the Stipulated Price Contract CCDC2 – 1994 and the BC Housing Public Tendering Guidelines for Non-Profit Housing are available from BC Housing (telephone: 604-439-4761) and on the BC Housing web site at:

- *URL Supplementary General Conditions – www.bchousing.org/files/ILBC/ILBC-Feb2003-Appendices.pdf*
- *URL Public Tendering Guidelines for Non-Profit Housing – www.bchousing.org/files/ILBC/Non-Profit_Public_Tendering_Guidelines_Sept_03.doc*

5. Independent Living BC Non-Profit Housing Program Guidelines, Appendix C – Real Estate Considerations

ADD, after section titled “Section 219 Covenant and Option to Purchase” (refer to page 84):

**“Homeowner Protection Office - Warranty Exemption
Information for Societies Receiving Funding From BC Housing**

As of July 28, 2004 all rental housing, including social housing (with the exception of co-op housing), is exempt from the Homeowner Protection Office (“HPO”) requirement for both the reconstruction fee and the home warranty insurance. Prior to this, social housing projects had been exempt from the reconstruction fee. The builder must still be licensed by the HPO.

A condition of the exemption is that a section 219 covenant in favour of HPO is registered on title for 10 years requiring:

- rental use only, and
- no partial sale.

BC Housing requires this exemption for all projects for which it is the principal funder.

Master Agreement

Under the agreement dated November 25, 2004 (the “Master Agreement”), BC Housing and the HPO have agreed to procedures for claiming the exemption, including a standard Section 219 covenant and option to purchase which includes the requirements of both BC Housing and HPO.

Date Issued: January 12, 2005
Subject: Exemption from Homeowner Protection Act
Requirements
Reference: ILBC documents as noted
Page: 5 of 5



A stand-alone HPO Section 219 covenant, consistent with the Master Agreement, is also available. Under the Master Agreement, HPO will grant the exemption provided that BC Housing issues a “Commitment Letter” which states that, prior to the issuance of an occupancy permit, BC Housing will either register a covenant in favour of HPO or will ensure that warranty insurance is in place and the reconstruction fee is paid.

In circumstance where BC Housing does not require the exemption, the HPO has its own stand-alone 219 covenant available to sponsors, outside of the Master Agreement. This may occur where BC Housing’s contribution is relatively minor.

Exemption Procedure

When the exemption is being claimed under the Master Agreement, the following process will be used:

1. BC Housing will notify the society of the exemption requirements and process and will provide execution copies of the appropriate 219 covenant and option to purchase and request that they be executed and returned to BC Housing.
 2. Upon BC Housing receiving the executed 219 covenant and option to purchase from the society, BC Housing will forward the document to HPO for their execution, together with a Commitment Letter. A copy of the Commitment Letter will be sent to the society, and the society should forward a copy to the licensed builder.
 3. The licensed builder will request an exemption by submitting to the HPO an *HPO Registration Form, Multi-Unit Building*, together with a copy of the Commitment Letter.
 4. HPO will complete Section E (Proof of Exemption) of the *HPO Registration Form, Multi-Unit Building* and provide a copy to the licensed builder.
 5. The licensed builder provides a copy of the Proof of Exemption to the municipality prior to the issuance of the Building Permit.
 6. BC Housing will register on title the executed 219 covenant and option to purchase at the same time that it registers its mortgage, in priority to that mortgage.
- More information about the HPO may be obtained at: www.hpo.bc.ca
 - URL *ILBC Non-Profit Housing Program Guidelines*, Appendix C - www.bchousing.org/files/ILBC/ProgramGuidelinesAppendixC.pdf

END