

Regulatory Bulletin

Aiding and Abetting Unlicensed Builders

Overview

A residential builder must obtain a licence from BC Housing before starting construction on a new project. See Regulatory Bulletin No. 26: Licensing of General Contractors for more information. For general contractors of smaller buildings, built under Part 9 of the Building Code, this requires meeting prescribed qualification requirements. In addition, before starting to build a new home, a person must enroll the home in home warranty insurance or obtain an applicable exemption. Authorities issuing building permits ask for a New Home Registration Form showing that the home has been registered by a Licensed Builder before issuing the permit.

In order to avoid qualification and licensing requirements, some unlicensed builders attempt to start construction by convincing Licensed Builders to enroll the home in home warranty insurance for them. A building permit is issued and, instead of the Licensed Builder managing construction, the unlicensed builder manages construction. At this point, the unlicensed builder is committing an offence and the Licensed Builder is participating in the offence through aiding or abetting.

This bulletin outlines the possible consequences of aiding and abetting and is intended to help Licensed Builders avoid such situations.

The Law

Section 14(1) of the Homeowner Protection Act says that a person must not carry on the business of a residential builder unless they are licensed.

A residential builder is defined as a person who engages in, arranges for or manages, all, or substantially all, of the construction of a new home or agrees to do any of these things. This definition includes developers and general contractors.

Under section 85 the *Offence Act* of BC, it is an offence to aid or abet or counsel (provide advice) another person in committing an offence.



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Regulatory Bulletins are a series of publications developed by BC Housing to provide information on the Homeowner Protection Act. All Regulatory Bulletins can be viewed at www.bchousing.org.

This bulletin and the website are for convenience only, they do not constitute legal advice. For complete details consult the Act and its regulations. For more information contact:

Licensing and Consumer Services | Branch of BC Housing

Phone: **604-646-7050**

Toll-free: **1-800-407-7757**

Fax: **604-646-7051**

E: licensinginfo@bchousing.org

W: www.bchousing.org

[@RegistrarBCH](https://twitter.com/RegistrarBCH)

A licence holder's obligations

As a licensee you sign a declaration that says you will:

“comply with the regulations, legislation and standards in force that are applicable to any new home to be constructed or building envelope renovation performed by the residential builder, which include the Homeowner Protection Act and regulations **and will not permit the applicant to allow another party to use its licence to act as an unlicensed residential builder or otherwise facilitate a breach of the Homeowner Protection Act or regulations.**”

This is an important undertaking, declaring you will not break the law or help anyone else break the law.

What can happen if you help an unlicensed builder?

The Compliance Department at BC Housing receives information from several sources, including tips through our anonymous tip line.

If we receive information or a tip about possible aiding or abetting an unlicensed builder, our Compliance Department will open and actively pursue an investigation.

In order to investigate an allegation, compliance investigators or officers may:

- › enter and examine construction sites
- › make enquiries about workers' qualifications and the work performed by them
- › inspect the records of licensees and owner builders
- › require the production of records for inspection

Please note that it is an offence, subject to a monetary penalty, to obstruct these enquiries, including concealing, destroying or withholding records relevant to the investigation.

If evidence of aiding or abetting is found, the investigation file will be passed to the Registrar and Licensing Department for further consideration and action.

Possible consequence of helping an unlicensed builder breach the licensing requirement

1. Prosecution

Under section 85 of the *Offence Act*, the Licensed Builder can be charged with an offence for aiding or abetting the commission of an offence.

2. Licence suspension

Licensees found to be in breach of their undertaking may have their licence suspended or cancelled.

3. Licence condition/restriction

Conditions may also be included in a licence, specifically prohibiting a licensee from engaging in an activity that facilitates another party to breach the Act. Breach of that condition could then result in suspension and a monetary penalty.

How can you help prevent illegal activity?

If you suspect non-compliance with the Homeowner Protection Act, including aiding or abetting unlicensed builders, please forward all information to our anonymous tip line at 1-800-407-7757 (select option 4). You can also email us at compliance@bchousing.org. Caller information remains confidential upon request.

Our Compliance Department follows up on all tips.

As part of our mandate to protect consumers, our priority is to bring any illegal activity into compliance through licensing and home warranty insurance and to deter behaviour that encourages illegal activity.

