



Buying or Selling an Owner-Built Home

Occupancy and disclosure requirements for owner-built homes

An owner builder must occupy their new home themselves for at least one year after obtaining an occupancy permit and are not permitted to sell or rent the new home during that one-year period. An owner builder who built their home prior to November 19, 2007 must provide prospective purchasers with the old-form Owner Builder Declaration and Disclosure Notice within the first 10 years after occupancy.

An owner builder building under an Owner Builder Authorization (after November 19, 2007) is required to provide an Owner Builder Disclosure Notice, obtained from BC Housing, to prospective purchasers within the first 10 years after occupancy, and prior to entering into a Purchase and Sale Agreement for that new home. The owner builder must advise BC Housing of the occupancy date. BC Housing will not release the Owner Builder Disclosure Notice until the one-year occupancy requirement is verified. Subsequent purchasers are also required to provide the Owner Builder Disclosure Notice if they sell the home within the 10-year period. The Owner Builder Disclosure Notice will state that the home was built under an Owner Builder Authorization, when the 10-year period started, and whether or not there is a voluntary policy of home warranty insurance in place.

Statutory protection requirements for owner-built homes

An owner builder who sells their home within the first 10 years after occupancy is obligated to subsequent purchasers for defects in the new home during that 10-year period. The *Homeowner Protection Act (Act)* and regulations clarify that an owner builder's obligations under the statutory protection are similar to the obligations of a Licensed Residential Builder under a policy of home warranty insurance. That is, two years for labour and materials, five years for defects in the building envelope and 10 years for structural defects.

The statutory protection enables subsequent purchasers to take legal action against the owner builder to correct defects as set out in the provisions. There are some reasonable exceptions to the statutory protection (for example, defects caused by someone other than the builder or natural disasters) and these are set out in detail in the *Homeowner Protection Act* and regulations.

Selling an owner-built home during construction or before the 12-months occupancy requirement is met

Despite the occupancy requirement for owner builders, the *Act* does allow an owner builder to apply to Licensing and Consumer Services, a branch of BC Housing, on the basis of undue hardship for permission to sell during construction or earlier than 12 months after occupancy.

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
www.bchousing.org
@RegistrarBCH

For homes built under an Owner Builder Authorization, applicants can download a Permission to Sell application form from BC Housing's website at www.bchousing.org and mail or fax the completed form along with any required supporting documentation and the \$100 processing fee.

Such approvals are not given lightly and conditions may be imposed if approved. An owner-built home may not be offered for sale "as is" or sold either during construction or earlier than the 12 months from obtaining an occupancy permit without approval from the Licensing department. This ensures that a partially complete or newly occupied owner-built home is not inadvertently sold without the protection of the legislation in place for a new homebuyer. The prohibition applies to new homes at all stages of construction.

New Homes Registry

The easiest way for a prospective purchaser to determine whether a home can be offered for sale is to search the online New Homes Registry at www.bchousing.org. Prospective purchasers can check the status of a new home or a new home under construction and find out if the home has a policy of home warranty insurance and is built by a Licensed Residential Builder, or whether it is built without home warranty insurance under an exemption, such as an Owner Builder Authorization. Information available also includes: name and contact number of the warranty provider, the builder's warranty number and whether there is a disclosure notice on file for an owner-built home.

All homes registered with BC Housing on or after November 19, 2007 are searchable on the New Homes Registry. If you are searching for a home registered after July 1, 1999 and before November 19, 2007, or you cannot find a property on the registry, contact the Licensing department.

* New homes not found on the New Homes Registry or by calling the Licensing department will be treated as potentially non-compliant and should not be sold until verified by BC Housing.

Illegal Sales

Owner builders can avoid committing an offence under the *Act* by remembering the following:

- Owner-built homes may not be offered for sale or sold while the home is under construction, or prior to occupying the home for one year from the date the occupancy permit was issued, unless the owner builder applies for and receives a letter from BC Housing granting them permission to sell.
- Owner builders can avoid administrative penalties by ensuring that occupancy permit information is filed early with BC Housing's Licensing department (owner builders can file using their online account), ensuring there's time to verify the information and provide an Owner Builder Disclosure Notice. Owners are strongly advised to obtain an Owner Builder Disclosure Notice prior to offering their home for sale.
- Owner-built homes may not be sold without providing the Owner Builder Disclosure Notice to the prospective purchaser. The Owner Builder Disclosure Notice must be provided to a prospective purchaser prior to entering into a Purchase and Sale Agreement.

BC Housing is advised by the Land Title Office whenever the title of an owner-built home is transferred and enforcement action is pursued if the sale is illegal (which may include compliance orders, monetary penalties, court injunctions, or convictions under the *Act*).



All homes registered with BC Housing on or after November 19, 2007 are searchable on the New Homes Registry.