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Flood of reaction greets call to regulate salespeople

Unlicensed agents sell one in every four new homes - but not everyone agrees that's a problem

When I wrote the column *Wild West tactics must be corralled* published Aug. 11/01, I had no idea it would result in a storm of response, both positive and negative. The column was prompted by the proposal of the Ministry of Consumer and Business Services to amend the Real Estate and Business Brokers Act, allegedly to safeguard consumer interests.

In the column, I reported that in the Toronto area alone, some 40,000 homes and condominiums are sold every year, representing more than \$12 billion in consumer spending. Under current law, there is no requirement for new homes and condos to be marketed by licensed salespeople, and no legislation governs the conduct of builder sales staff. I wrote that although the vast majority of sales staff at new home and condominium projects are competent, capable and honest, the sales industry itself was unregulated.

The point of the column was what I believe is the hypocrisy of the minister of consumer and business services, Norm Sterling, in saying he wanted to protect the consumer, while leaving the sales of new units totally unregulated.

It turns out that my facts were only partly correct, and that a substantial proportion of new homes are already sold by realtors. I am indebted to Andrew Brethour, who e-mailed and phoned to say that there are many specialist real estate firms, such as his own, PMA Brethour Real Estate Corp. Inc., which provide sales and marketing expertise to the building industry. His company and others, such as Norman Hill Associates, Baker Real Estate Corp, Milborne Real Estate Inc., Team 2000 Realty Inc., and Del Realty Inc., will account for perhaps 30,000 new home sales in the Greater Toronto Area this year.

These companies, says Brethour, are all registered real estate brokers and their sales staff are all appropriately licensed. Many are members of the Toronto Real Estate Board and the Greater Toronto Home Builders Association and abide by their respective codes of ethics. Of course, all are regulated by the Real Estate Council of Ontario - the government body which regulates real estate agents and brokers.

Brethour confirmed that there is an unregulated component of the industry, referred to as "in-house sales staff." They are generally unlicensed and work directly for a builder or developer.

"It is this component that should be reviewed and changed," says Brethour. The new Act should require new home sales people to be licensed in multiple unit sales - greater than two or more, he believes.

He added that this is "an important issue throughout Ontario and should be rectified."

(Realtors such as Brethour, of course, would potentially be among the beneficiaries if new home sales were regulated.)

Anne Scharf, the broker at Especially New Homes Inc. in Waterloo, services her local new homes industry in the areas of sales and marketing. After reading my "Wild West" column, she wrote to say, "I couldn't agree with you more."

Says Scharf, "We have a large problem locally with ... unlicensed salespeople selling millions of dollars worth of new homes with no training, education, insurance, regulations or supervision of a broker."

Builders' in-house salespeople, since they are not licensed, are supposed to be on salary, but, Scharf writes, "In most cases they are being paid straight commission, which is in direct contravention of the (Real Estate and Business Brokers) Act."

One home builder in the region, Scharf writes, "has about 10 salespeople working with them in this manner. These salespeople are literally thrown on a new home site with no training, no ongoing education and no direct supervision."

She wrote that she has "been called directly by some of these salespeople to help them write a clause for a contract, etc., or for advice because they don't have anyone they can ask."

Scharf has written to the government "so that this huge loophole will be covered in the legislation. As to date, it has not even been addressed."

Not everybody agrees that licensing of new home salespeople is a good idea. One local builder accused me of being harmful, dishonest and misleading. He e-mailed to say that our industrialized world "generally works on a buyer-beware premise."

I replied that this is not really true. The housing industry, I reminded him, is one of the most regulated there is. It's impossible to build a house or condominium without dealing with hundreds of regulations - both major and petty - ranging from building codes, fire codes, sewers, water lines, hydro and gas connections, sidewalks and roadway widths to fence heights, brick colours and satellite TV dishes.

The builder's e-mail argued that although the buyer-beware concept "does not mean anyone has a right to mislead, it also does not mean that we need big brother to intervene and take care of us.

"I would hope," he added, "that most Canadians are confident and grown up enough to feel that way."

He challenged me to "state the facts correctly" and "present an honest picture by representing the full story and giving fair representation to other relevant viewpoints." But when I asked him if I could use his name, he declined the offer.

Patrick O'Hanlon, president of the Greater Toronto Home Builders' Association, wrote in his Bricks And Sticks column in New In Homes last month to say that most of the sales staff used by builders and developers are licensed, and that those who work directly for developers are "quite experienced, well-trained and certified."

They have the option of taking a course offered by the Ontario Home Builders' Association to become sales professionals for new homes. (They also have the option of not taking it.)

O'Hanlon stressed - and I agree with him wholeheartedly - that buyers of new homes need to be informed. Some attend seminars (like next week's two seminars sponsored by the GTHBA) before buying. But some, unfortunately, learn the hard way - after their purchase agreement has become firm and binding, and some never learn.

Queen's Park has apparently decided new home buyers do not deserve the same protection as resale buyers

Whether sales agents for new homes and condominiums will ultimately have to be licensed will be decided at Queen's Park and not in these pages. But in leaving builders' in-house salespeople unregulated under his proposed legislation, Sterling has apparently decided that new home buyers - many of whom purchase a house or condo worth hundreds of thousands of dollars from sketches and plans - do not deserve the same protection as buyers in the resale market. Sterling appears to believe that buyers of new homes do not have to be served by agents who are trained, licensed and insured.

Sterling says he wants to protect consumers, but he appears unconcerned that 10,000 new housing units a year in Toronto alone are sold by unlicensed sales people. I think we need a new minister of consumer and business services.

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