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September 28 2002

How homebuyer protection could be improved

It would be an understatement to say that Greater Toronto Home Builders' Association president Sheldon Libfeld didn't like what I wrote about the Ontario New Home Warranty Program in my Sept. 7 column, *Home warranty program behind the times* (online at <http://www.aaron.ca>).

In his Sept. 14 New in Homes column, *Report says ONHWP offers buyers best protection*, Libfeld accused me of trying to discredit ONHWP in the minds of homebuyers; of resorting to half-truths, apples and oranges comparisons with other jurisdictions, and comparisons to programs that do not yet exist.

In his response, Libfeld quoted extensively, but very selectively, from a 2001 report by PSTG Consulting Group, which congratulated ONHWP on its service to Ontarians over the last 25 years.

What he failed to mention was the criticism PSTG levelled at the plan, or a similar critical report by the Building Regulatory and Reform Advisory Group.

PSTG said, for example, that all ONHWP directors, even the consumer representatives, are chosen by the building industry. PSTG expressed "concern" over the process and recommended "further examining" the industry's role in choosing ONHWP directors.

PSTG reported that ONHWP service levels in the complaints and conciliation areas have declined in recent years and "need to be improved."

It also said that homebuilders need "to improve the professionalism of the industry and to improve the quality of service provided by industry members."

The PSTG report noted "approximately one in four consumers who purchase a home lodge a complaint with ONHWP." It also reported that consumer complaints to ONHWP increased 45 per cent from 1999 to 2000, with a staggering total of 28,153 complaints in 2000.

In response to the criticism, ONHWP has now changed the way it counts complaints, so that the contact numbers in 2001 and 2002 are considerably lower.

According to PSTG, two 1998 surveys rated consumer satisfaction with ONHWP as "low average." Hardly a stellar performance. Libfeld misquoted me by saying that I resorted to "apples and oranges" comparisons with other programs, and with programs which do not yet exist and never may.

What I said in my column was that parts of at least one other program, Alberta's, were better than Ontario's. That statement is true. I also clearly stated that the U.S. plan I wrote about was a proposal and not yet in place, but it had been endorsed by the National Association of Home Builders (NAHB) in the U.S., representing 60,000 builders and 130,000 associate members.

That report, now before the U.S. government awaiting approval, recommends a 90-day turnaround for repairing defects in new homes. Compare this to Ontario where some homebuyers may, in Libfeld's own words, have to wait a whole year for satisfaction and only if the item is covered under the warranty.

I publicly challenge Libfeld and the GTHBA to adopt the unanimous recommendation of 60,000 of his fellow builders in the United States.

Libfeld accused me of "leaving would-be homebuyers with unrealistic expectations." Imagine if carmakers forced purchasers to wait months to have defects repaired because of a very hot market or labour shortages. The government would step in in a flash.

Libfeld accused me of warning readers, in a previous column, that builder offers contain "ticking time-bombs" and hidden "cost pass-through clauses." I plead guilty to believing, perhaps naively, that the purchase price of a home should include all costs unless the dollar amounts of any additional charges are disclosed in writing in the contract. I challenge Libfeld to state publicly that the mandate of ONHWP should be consumer protection a glaring omission from the enabling legislation and the ONHWP mission statement. Without these statements of intention, how is the public to know who ONHWP is trying to protect the builders or the homebuyers?

For this reason, I challenge Libfeld to recommend opening up the special and general meetings of ONHWP to the public, so we can see how it operates.

In fact, maybe it's time for the government to wrest control of ONHWP away from the building industry and open up the field to private, competing warranty programs regulated by the government.

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