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Revised purchase agreement could ease "sticker shock"

In a landmark consumer protection initiative, the [Tarion Warranty Corp.](#) has proposed a requirement that builder purchase agreements set out in one place all the extras that can be added to the price of a new home. (Tarion regulates the home-building industry in Ontario and administers the warranty program for new homes.)

If enacted, this initiative would mark a significant departure from the current practice whereby extras (euphemistically called "adjustments" by developers' lawyers) are scattered through purchase agreements. It often requires the skills of a legal Sherlock Holmes to ferret them all out and calculate the total cost implications.

The proposed changes arose out of concerns expressed to Tarion about inadequate disclosure of the myriad of different items that are often charged on closing, resulting in "sticker shock" to buyers — and worse, an inability to raise the necessary funds.

When the regulations become law, a new Schedule B will be attached to the Tarion addendum in each builder purchase agreement. The schedule will be divided into two parts.

The first part will contain a list of fixed additional payments, fees and adjustments to the purchase price which the purchaser will be required to pay on closing.

The second part will list all variable adjustments to the purchase price. Builders will not be able to collect any extra charge if it is not shown on Schedule B.

In the category of **fixed additional payments**, the following types of charges will be listed for purchasers, no matter where else they are shown in the agreement:

- The Tarion Warranty Corp. enrolment fee (based on the price of the unit).
- A \$300 fee plus HST for record-keeping to hold the purchaser's deposits in trust.
- A \$50 fee for cashing and recording each deposit cheque.
- A \$150 fee plus HST to discharge the builder's construction financing and give clear title after closing.
- The builder's lawyer's \$73.45 real estate transaction levy, payable to the Law Society.
- A fixed fee for any NSF cheque.
- A fixed fee to make changes to a purchase agreement, such as adding another purchaser.
- Fixed legal and administrative fees if the builder allows the purchaser to "flip" the purchase agreement.

Under **variable adjustments**, purchasers will be alerted in one place to all the extra charges which cannot be determined at the time the agreement is signed. The variable charges may include:

- The condo unit's share of the cost of installation of gas, hydro, sewers and water services and meters, to an unlimited amount.
- Any new taxes imposed on the home or condo unit after the agreement was signed, also an unlimited amount.
- An unlimited levy for parks, public art or other municipal charges.
- HST on the cost of any included appliances.
- Interest on the balance of the purchase price from the day of final closing to the next banking day.
- Any increase in municipal, education or transit development charges imposed after the agreement is signed.
- An unlimited contribution to the builder's share of all costs associated with a municipal development agreement.
- Any new taxes imposed on the unit by any level of government after the agreement was signed
- An unlimited levy for parks, community services, boulevard tree planting, public art levy or other municipal charges
- Interest on the balance of the purchase price from the day of final closing to the next banking day
- Estimated municipal taxes for the year of closing and the subsequent year.

With the entire list of variable charges in one place, purchasers will be alerted to them in a way that current builder agreements do not make clear. Purchasers will then be free to either accept the risk of unlimited extra charges or attempt to negotiate a maximum amount with the builder.

As a past board member and current chair of Tarion's consumer advisory council, I am an enthusiastic supporter of the proposed changes. As I see it, they will make builder offers more transparent and easier to understand. As well, they will go a long way towards reducing "sticker shock" for new home buyers.

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