

Q&A: Information for purchasers of units in pre-construction condominium projects

On February 20, 2019, the Ministry of Government and Consumer Services publicly requested that Tarion make changes to provide more information for consumers about the risks of purchasing a residential condominium unit in a pre-construction standard or phased condo project. Based on stakeholder feedback this spring, Tarion has developed an information sheet, to be attached as the first page of all agreements of purchase and sale for purchasers of pre-construction condominiums.

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1. Where can I find a copy of the information sheet?

A generic version of information sheet can be found [here](#). The information related to a particular purchase agreement will need to be filled in by the builder before attaching it.

Another supplement to the agreement of purchase and sale is the Tarion Addendum. Generic versions of the Tarion addenda to agreements of purchase and sale for condominiums can be found [here](#).

2. How will the new information sheet benefit buyers of pre-construction condominiums?

Ontario condo buyers will be able to make more informed decisions thanks to enhancements that highlight key potential risks of buying pre-construction condominiums. Tarion has developed a new standard and mandatory information sheet that will be included as the first page of the agreement of purchase and sale for condominium buyers. Important information regarding early termination conditions, timelines and project status in the addendum to the purchase agreement will be up front in this information sheet.

The information sheet will also emphasize the importance of buyers having the purchase agreement reviewed by a lawyer familiar with condominium transactions. Such a review will help purchasers be better informed of the risks of a new condo purchase transaction and their rights and obligations.

3. What information is included in the new information sheet for purchasers of pre-construction condominiums?

Every agreement of purchase and sale must include an addendum that details important information regarding timelines, project status and project cancellation conditions. The new information sheet will include cautions and disclosures including:

- pre-construction condominiums come with the risk that they may never be completed;
- early termination conditions that would allow a developer to cancel a project;
- information about the status of the development (e.g., formal zoning approval, relevant approval authority and date of commencement of construction);
- information about any restrictions on the developer's land title that may prevent the project from going forward;
- a purchaser has an initial 10-day period to cancel their purchase under the Condominium Act, 1998; and
- the expected date when a purchaser can take occupancy.

4. When will the new information sheet take effect?

Agreements of purchase and sale for new projects or phases of a project going forward will be accompanied by an information sheet at the front that outlines some of the key potential risks. Specifically, this requirement applies to any project or phase of a project where the first agreement of purchase and sale for the project or phase is signed after January 1, 2020.

5. If a pre-construction condominium unit was sold before January 1, 2020, will the agreement of purchase and sale include an information sheet?

The new information sheet is not retroactive. It will be attached to agreements of purchase and sale for new projects or phases of a project where the first purchase agreement for the project or phase is signed after January 1, 2020.

6. If the information sheet is not included in the agreement of purchase and sale or is not the first page, what should I do?

Should you notice that the information sheet is not included, you or your lawyer should contact the builder. You should also let Tarion know that this occurred.

7. What are early termination conditions and why do they exist?

When purchasing a unit in a pre-construction condominium, there is always a risk that the project or phase of the project could be delayed or cancelled. Early termination conditions are conditions that, if not satisfied, may result in termination of the purchase agreement. Some examples of conditions include reaching a minimum unit sales threshold for the project to proceed, and the developer securing necessary financing for construction and completion of the project. Early termination conditions are contractual and must be agreed to by both parties to the purchase agreement (the vendor and the purchaser). Moreover, they must be clearly set out in the Addendum to the purchase

agreement, so that home buyers are made aware of the risks relating to the conditions when they enter the agreement.

8. Are there other risks that could cause a condominium project to be cancelled that may not be mentioned on the information sheet?

The information sheet highlights risks that could cause a condominium project or phase of a project to be cancelled, such as early termination conditions – it is not exhaustive. However, all early termination conditions must be listed in the Tarion Condominium Addendum. Purchasers are strongly encouraged to review their purchase agreement and the Tarion addendum with a lawyer familiar with condominium transactions. This information sheet may not capture all risks such as insolvency.