

Registrar Bulletin No. 10 FH

Tarion Application Process for Freehold Homes

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What This Bulletin Is About

Overview

This Bulletin summarizes the process to apply to Tarion to sell and build Freehold Homes, which involve Ontario Building Code (OBC) Part 9 construction only. There are separate Registrar Bulletins relating to Contract Homes (Registrar Bulletin 10-CH), and for condominium projects (Registrar Bulletin 10-C).

It is important to follow the process outlined in this Bulletin because it is a provincial offence to offer to sell, agree to sell, and/or Commence Construction of a home without first: obtaining Vendor and Builder licenses from the Home Construction Regulatory Authority (HCRA); and applying to Tarion to obtain authorizations to offer to sell, agree to sell, and/or Commence Construction of the home.

The process outlined in this Bulletin primarily relates to persons or entities who are licensed as both a Vendor and Builder. Separate Vendor and Builder entities who plan to work together to sell and build homes should review page 10 under the “Separate Vendor and Builder of a Home” section and contact the Underwriting department to address any additional questions.

The process outlined in this Bulletin primarily relates to Freehold Homes that will be sold before Commencing Construction. The process varies slightly for homes that will be sold after Commencing Construction – see page 9 under the “Homes Sold After Construction Commences” section and contact the Underwriting department to address any additional questions.

Glossary

Below are definitions of the key terms used in this document (not in alphabetical order). These defined terms are indicated throughout the document with capitalized letters.

- “Freehold Home”** Refers to a newly constructed residential building sold by a vendor to a purchaser under an agreement of purchase and sale, where the sale involves both the lot and dwelling and the building is either: (i) a self-contained one-family dwelling, detached or attached to one or more others by one or more common walls; or (ii) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership. It does not involve any interest in a condominium of any kind. Typically, this refers to a regular new home in a subdivision, sometimes called a single-family dwelling, or a dwelling in a duplex, triplex, quadraplex, townhouse or rowhouse (in each case which is not a condominium).
- “Builder”** A person or entity who undertakes the performance of all the work and supply of all the materials necessary to construct a completed home.

“Vendor”	<p>A person or entity who, on their own behalf, sells a home not previously occupied to an owner. The Vendor is responsible for providing the owner with statutory warranty coverage.</p> <p>In some cases the Vendor and Builder may be the same person or entity. In other cases the Vendor and Builder may be separate persons or entities working together.</p>
“Interested Persons”	<p>An individual, corporation, or other entity who may exercise control over the operations of a licensed Vendor or Builder, or who has a beneficial interest in the operations of the licensee (in terms of beneficial ownership, or that they stand to benefit from the profits of the licensee). The Interested Person’s influence may be the result of direct or indirect authority and/or financial control over the business. Examples include but are not limited to directors, officers, principals, or partners of a licensee.</p>
“Home Construction Regulatory Authority (HCRA)”	<p>The administrative authority responsible for licensing Vendors and Builders under the <i>New Home Construction Licensing Act</i>.</p>
“Tarion”	<p>The administrative authority responsible for: authorizing the specific construction plans of licensed Vendors and Builders; and administering the statutory warranty plan under the <i>Ontario New Home Warranties Plan Act</i>.</p>
“Sell”	<p>Includes entering into an agreement to sell.</p>
“Commence Construction”	<p>The commencement of construction of foundation components or elements (such as footings, rafts or piles) for the home.</p>
“Qualification for Enrolment (QFE) Confirmation”	<p>The written authorization that a Vendor must obtain from Tarion for <u>each</u> home before the Vendor is permitted to offer or agree to sell the home.</p>
“Enrolment Confirmation”	<p>The written authorization that a Builder must obtain from Tarion for <u>each</u> home before the Builder is permitted to Commence Construction of the home.</p>
“Application for QFE and/or Enrolment”	<p>The application that a licensed Vendor submits to Tarion outlining information about their proposed sales and construction plans. Tarion generally responds to the application with a Notice of Proposal (NOP) of Conditions, which outlines Terms and Conditions that must be satisfied by the applicant to obtain QFE Confirmation and Enrolment Confirmation.</p> <p>Note that where a Vendor is working in partnership with a separate Builder to sell/build homes, the Vendor is responsible for submitting the application.</p>
“Risk Assessment”	<p>A profile that Tarion develops for a Vendor and/or Builder after reviewing their Application for QFE and/or Enrolment. The profile is used for underwriting purposes to determine whether, and on which Terms and Conditions, a Vendor/Builder’s proposed sales and construction plans should be authorized. A Risk Assessment considers factors relating to the Vendor/Builder and their Interested Persons, including their past and present conduct and financial status (eg. financial equity, experience, and Tarion history). The security-related aspects of the Risk Assessment are outlined in Registrar Bulletin 11-FH.</p>
“Terms and Conditions”	<p>Requirements that a Vendor and/or Builder must satisfy in order to obtain, and continue to maintain, QFE and Enrolment Confirmation from Tarion.</p>

Some Terms and Conditions are legislated under the *Ontario New Home Warranties Plan Act* and apply equally to all Vendors and Builders.

Some Terms and Conditions are proposed by Tarion on a case-by-case basis for a given Vendor or Builder.

“Notice of Proposal (NOP) of Conditions”

The written document that Tarion sends a Vendor outlining the proposed Terms and Conditions that they must satisfy to proceed with their construction and sales plans.

“BuilderLink”

Tarion’s online portal where licensed Vendors can submit an Application for QFE and/or Enrolment.

“Vendor Agreement” and “Builder Agreement”

A standard agreement that all Vendors and Builders must enter into with Tarion as part of the application process. Entering these agreements is a legislated requirement.

“Guarantor”

A person or entity, other than the applicant Vendor / Builder, who enters into a guarantee and indemnity agreement with Tarion to guarantee the Vendor / Builder’s financial obligations to Tarion. The person or entity may or may not be affiliated with the Vendor / Builder. Tarion may request that an applicant Vendor / Builder arrange for a Guarantor depending on the Vendor / Builder’s Risk Assessment.

“Registrar Bulletins”

Policies [published by Tarion](#) containing information and rules about various matters related to the statutory warranty plan. Compliance with these Bulletins is a legislated requirement, and a requirement under the Vendor Agreement and Builder Agreement.

“Contract Home”

Refers to a newly constructed residential building constructed by a builder for the owner of the lot for their use (not for sale), in accordance with a construction contract where the builder supplies substantially all the work and materials for the completed building. The building is either: (i) a self-contained one-family dwelling, detached or attached to one or more others by one or more common walls; or (ii) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership. It does not involve any interest in a condominium of any kind.

“Project”

In the Freehold Home context, “project” is a term that Tarion may use in discussions with you to refer to a grouping of homes that you seek to sell and build.

Application Process

1. Obtain Your Licences from the Home Construction Regulatory Authority (HCRA)

Before approaching Tarion, you must first be licensed by the **HCRA**. A Vendor licence is required if you plan to act as “**Vendor**” and sell a home. A Builder licence is required if you plan to act as “**Builder**” and construct a home. Only a licensed Vendor can sell a home, and only a licensed Builder can construct a home. Every application to Tarion requires that both an HCRA-licensed Vendor and Builder be identified, whether the Vendor and Builder are the same person/entity, or separate persons/entities planning to work together.

For the purposes of this document, the terms “Vendor” and “Builder” refer to those who have been properly licensed by the HCRA.

Visit the HCRA’s website at www.hcraontario.ca for more information about the licensing process.

Note: being licensed by the HCRA does not guarantee that Tarion will authorize your plans to sell and build specific homes. Tarion’s authorization, as well as the Terms and Conditions that must be satisfied to obtain the authorization, will depend on underwriting factors.

2. Apply to Tarion for Authorization to Sell and Build Specific Homes

Introduction

Obtaining or renewing a licence from the HCRA does not authorize you to offer or agree to sell / build a home(s). Those authorizations can only be obtained by completing the application process with Tarion and by receiving confirmation from Tarion that you may sell and build the home(s).

The authorization to offer or agree to sell a home is called “**Qualification for Enrolment (QFE) Confirmation**”. The authorization to build a home is called “**Enrolment Confirmation**”. There is a single application titled “**Application for QFE and/or Enrolment Confirmation**” that you must submit as a first step to obtain both authorizations – for ease this is referred to as the “application” throughout this Registrar Bulletin. This application can be completed through Tarion’s online **BuilderLink** portal. The QFE and Enrolment Confirmations are not issued automatically after you submit an application – you must complete the further steps 3 to 5 outlined in the remainder of this Registrar Bulletin.

Your application should relate to all the homes that you plan to sell and build over the next 12 months. While this Bulletin focuses on the application process for Freehold Homes, you may submit a single application to cover a mix of home types (i.e., any and all freehold, contract, or condominium units that you plan to sell/build over the next 12 months). Be sure to review the different versions of Registrar Bulletin 10 that apply to condominiums or Contract Homes if you will be applying for those home types.

Ideally you will submit one application every 12 months based on your sales and construction plans for the year. However, if something changes shortly after submitting an application, and you wish to increase the number of homes to sell / build (or there are other changes to your construction plans), you must contact Tarion and we can work with you to determine next steps. We will review to adjust your Risk Assessment and the NOP of Conditions as needed. We may require additional information as part of our Risk Assessment. Significant changes may require a new application.

Below are some points to keep in mind:

- It is a provincial offence to offer or agree to sell a home that has not received QFE Confirmation, or to Commence Construction of a home that has not received Enrolment Confirmation.
- Each home that you intend to sell and build requires QFE Confirmation and Enrolment Confirmation (though you may apply for multiple homes on a single application). For clarity, QFE Confirmation and Enrolment Confirmation are not one-time authorizations that subsequently allow you to sell / build a limitless number of homes. The Confirmations apply to the specific number and type of home(s) proposed within your application and stated on your NOP of Conditions.
- Although you apply for QFE Confirmation and Enrolment Confirmation at the same time through a single application, each of the written confirmations are provided to you at separate milestones. QFE Confirmation is provided first, allowing you to offer or agree to sell the home. Enrolment Confirmation is later provided before you Commence Construction of the home.
- If you plan to Commence Construction before beginning sales, refer to page 9 for information about the modified process that applies.
- Check BuilderLink to see how many Freehold Homes you have left to sell/build (within your previously authorized limits, if any) and re-apply when you wish to sell/build above your current limit.
- Your Tarion application does not need to correspond with your HCRA licence renewal.

Content of the Application for QFE and/or Enrolment

Your application will include information and documents about the Vendor, Builder, and your proposed construction and sales plans for the next 12 months:

- The estimated number of homes;
- Details about the types of homes, geographic areas, and estimated sales price range(s);
- The following forms and documentation which you may access samples of [here](#):
 - Application for QFE and/or Enrolment (to be completed through BuilderLink);
 - Signed Vendor Agreement and Builder Agreement (electronically signed through BuilderLink);
 - Financial documentation about the Vendor/Builder applicant;
 - If the applicant Vendor/Builder is a corporation, their latest available externally prepared signed Notice to Reader financial statements, reviewed financial statements, or audited financial statements;
 - If the applicant Vendor/Builder is a sole proprietorship, a Personal Net Worth Statement form with supporting documents;
 - If the applicant Vendor/Builder is a partnership, financial statements or Personal Net Worth Statement form with supporting documents, as determined by Tarion;
 - A Guarantee and Indemnity agreement from a third party(s) guarantor of your financial obligations to Tarion, including;
 - The Guarantee and Indemnity Agreement itself;
 - Personal Net Worth Statement form with supporting documents for all guarantors who are: an individual, a sole proprietor, or a partner of a partnership;

- If the guarantor is a limited or general partnership, additional documentation confirming the enforceability of the guarantee against the partners/partnership (via a template provided by Tarion);
- If the guarantor is a corporation, reviewed financial statements or audited financial statements for the past three fiscal periods, shareholder register, and a copy of the Initial Return / Notice of Change document as well as the incorporation documents. Note all corporate guarantors are reviewed by Tarion to determine whether the guarantor is acceptable to Tarion;
- Additional information and documentation reasonably requested by Tarion to help to develop a risk and underwriting assessment for the work you are proposing; and
- You may be asked to attend an interview or a site visit with Tarion.

Application Review

To assess whether to grant an application and the appropriate **Terms and Conditions**, Tarion may consider the past and present financial position and conduct of the applicant Vendor / Builder and their **Interested Persons**. This may include a review of the applicant's financial equity, construction experience, warranty service, paid claims, and any other factors that indicate the applicant's willingness or ability to meet their obligations under the ONHWP Act, the Vendor and Builder Agreements, and the Registrar Bulletins.

Application Timelines

We recommend that you submit your application 10-12 weeks before you plan to launch sales or Commence Construction (whichever occurs first). This timing recommendation is a general guideline to ensure that you provide sufficient lead time for Tarion to review and respond to your application. Your application may take less time to process if your application documentation is in order. It is our objective to assist you with a quick and seamless application process. Below are examples of circumstances that may result in delays. Please factor these into your project timelines as you work through your Tarion application process:

- Interview requirements;
- Reference checks;
- Site visits;
- Additional review of problematic warranty history;
- The Vendor or Builder is unable to demonstrate sufficient technical competency or experience with high-volume sales/construction;
- Missing or incomplete documentation; or
- Time required for you to satisfy Terms and Conditions such as providing security prior to receiving QFE Confirmation and commencing sales.

3. Terms and Conditions

Tarion will assess your application and provide a written response outlining the Terms and Conditions that you must satisfy prior to selling or building the home(s) referenced in your application. Note that home(s) you apply for in future applications may be subject to different Terms and Conditions. The written response containing your Terms and Conditions is called a **“Notice of Proposal (NOP) of Conditions”**. The Terms and Conditions found within the NOP of Conditions are broken down into three categories:

- (1) **Conditions of QFE:** requirements you must satisfy before Tarion issues written QFE Confirmation for the home(s), which authorizes you to begin sales;
- (2) **Conditions of Enrolment:** requirements you must satisfy before Tarion issues written Enrolment Confirmation for the home(s), which authorizes you to begin construction; and,
- (3) **Specified Terms and Conditions:** requirements that you must satisfy on an ongoing basis (ie. even after you receive QFE or Enrolment Confirmation).

Common examples of these Terms and Conditions include:

- The amount of security that you must provide to Tarion (note that depending on your Risk Assessment, security may be required either as a Condition of QFE or Condition of Enrolment); and,
- Other conditions Tarion may reasonably propose in order to mitigate risks and underwrite the warranty obligations relating to the proposed construction.

We encourage you to contact Tarion to discuss any concerns you have about your NOP of Conditions. If you wish to formally dispute the NOP of Conditions, you may file an appeal with the Licence Appeal Tribunal within 15 days of receiving the NOP of Conditions.

The Terms and Conditions within the NOP of Conditions are deemed to apply if you do not file an appeal by the 15-day deadline. If you are prepared to accept the NOP of Conditions, you do not have to return a signed copy to Tarion. If you wish to indicate to Tarion before the 15-day deadline that you accept the NOP of Conditions and will not be appealing, you are able to indicate your acceptance on BuilderLink.

Other Sources of Terms and Conditions

The Terms and Conditions proposed by Tarion in an NOP of Conditions are tailored to your proposed sales and construction plans. It is important to remember that there are other sources of terms, conditions, and obligations that apply across the board to all Vendors and Builders. These sources include: the ONHWP Act and Regulations; the Vendor Agreement and Builder Agreement; and the Registrar Bulletins.

4. QFE Confirmation and Beginning Sales

You must receive written QFE Confirmation for each home before you offer or agree to sell the home. After all the Conditions of QFE outlined in your NOP of Conditions have been satisfied (for example, you have provided the required security to Tarion), Tarion will issue written QFE Confirmation for the home(s) via email or mail. You can proceed to offer and enter into agreements of purchase and sale for home(s) that receive QFE Confirmation.

5. Enrolment Confirmation and Commencing Construction

You must receive written Enrolment Confirmation for each home before you Commence Construction of the home. When you are prepared to Commence Construction, you must do the following to obtain Enrolment Confirmation:

1. Submit the home(s) for enrolment through BuilderLink;
2. Satisfy all the Conditions of Enrolment outlined in your NOP of Conditions (e.g., post security that was required as a condition of enrolment); and,
3. Pay the applicable enrolment fees and regulatory fees either via BuilderLink or cheque (summarized in Registrar Bulletin 15).

Once these steps are complete, Tarion will provide you with written Enrolment Confirmation for the home(s) via email, which authorizes you to Commence Construction of the home(s).

Circumstances may arise where you received QFE Confirmation for a home, which authorizes you to offer or agree to sell the home before commencing construction, but your plans change such that you wish to Commence Construction before selling the home. In these circumstances, you may Commence Construction after obtaining Enrolment Confirmation, and proceed to sell the home later.

Homes Sold After Construction Commences

The process outlined in this Registrar Bulletin is primarily geared towards homes that will be sold before Commencing Construction. There are slight modifications to the process if you plan to Commence Construction before offering or agreeing to sell a home. The main modification is that Qualification for Enrolment Confirmation (QFE Confirmation) is not required. Instead, you can apply to Tarion for only Enrolment Confirmation, which (i) authorizes you to Commence Construction of the home, and (ii) after construction has commenced, authorizes you to offer or agree to sell the home. Below is a summary of the modifications to steps 1 – 5 outlined above.

- Step 1 (Obtain Your Licence From the HCRA) remains the same.
- Step 2 (Apply to Tarion for Authorization to Sell and Build) remains the same, except you must indicate on your application that the home(s) will be sold after Commencing Construction. As such, you will only be applying for Enrolment Confirmation for the home(s). You do not have to apply for QFE Confirmation for the home(s).
- Step 3 (Terms and Conditions) remains the same, except that your Terms and Conditions will not contain Conditions of QFE, because the home(s) do not require QFE.
- Step 4 (QFE Confirmation and beginning sales) does not apply.
- Step 5 (Enrolment Confirmation and Commencing Construction) remains the same. Keep in mind that you are not permitted to sell a home that only has Enrolment Confirmation (without QFE Confirmation) until after construction of the home commences.

Please do not hesitate to contact us if you have questions about the process for homes that will be sold after Commencing Construction.

Separate Vendor and Builder of a Home

Where the Vendor and the Builder are separate entities who plan to work together to sell and build a home(s), the Vendor (as the warranty provider) submits the application for QFE and/or Enrolment to Tarion.

The Vendor must indicate in the application the name of the Builder who will build the proposed home(s). To assess the application, Tarion will require information from the applicant Vendor and the proposed Builder.

The Vendor will be required to sign a Vendor Agreement with Tarion. The Builder will be required to sign the Builder Agreement with Tarion.

To assess the application, Tarion will consider the factors noted on page 7 under the “Application Review” subheading for both the Vendor and the Builder. If information about the Builder affects the Vendor’s application or the Terms and Conditions of QFE and/or Enrolment, Tarion will share that information with the Vendor. For example, if security is required because of the Builder’s lack of experience with the proposed type of construction or because of warranted defects in other homes built by the Builder, the reason for the required security will be explained to the Vendor. If there is any information that the Builder does not wish to be shared with the Vendor, they must let Tarion know at the time the information is provided, but this may result in the application being refused.

Tarion will respond to the application by issuing Terms and Conditions (in the form of an NOP of Conditions) to the Vendor. The Terms and Conditions must be satisfied by the Vendor unless the conditions specify otherwise.

The Vendor must enrol the home(s) through BuilderLink and obtain Enrolment Confirmation (to be shared with the Builder, to indicate to the Builder that Tarion has authorized construction to commence).

Only the Vendor can offer or agree to sell the home(s) (i.e. offer or enter into purchase agreement and subsequently transfer title). Only the Builder can Commence Construction of the home(s) and act as the Builder throughout the course of construction.

Although the Vendor is the provider of the statutory warranties, the Builder’s performance in constructing the home(s) in compliance with the warranties will be tracked and considered by Tarion when assessing future applications that involve the Builder.

Ongoing Review by Tarion

Tarion may review your Terms and Conditions, financial situation, licensing status, and the status of your construction and warranty service record on an ongoing basis, including annually; and may propose changes to your Terms and Conditions on an ongoing basis to reasonably reflect any changes to your Risk Assessment. Any proposed changes will be set out and explained to you in writing via an amended NOP of Conditions.

In some cases, if it is in the public interest to do so, or if the nature of the construction ceases to meet the definition of a “home” under the ONHWP Act, Tarion may revoke your QFE Confirmation, cancel your Enrolment Confirmation, or amend your Terms and Conditions. This would be done by way of a Notice of Proposal, and you will have appeal rights as described below.

A failure to abide by your Terms and Conditions may result in sanctions from Tarion, a refusal to approve further homes for sale, a delay in the release of security, a revocation of authorizations already issued by Tarion, and/or a request that the HCRA take action against your licence to sell or build homes.

Dispute Resolution

If you disagree with the Terms and Conditions proposed by Tarion within an NOP of Conditions, or wish to dispute a proposal by Tarion to refuse, suspend, or revoke QFE Confirmation, we encourage you to contact Tarion's Underwriting department to discuss your concerns. We will explain the basis for Tarion's proposal and work with you to try to resolve your concerns. For example, if Tarion's proposal relates to a lack of financial equity, it may be that Tarion's proposal can be adjusted if you are able to provide additional financial information, bring in a third party guarantor to support your financial obligations, or reduce the number of homes you are proposing to sell.

If you are unable to resolve your dispute through discussions with Tarion, you can appeal any Notice of Proposal issued by Tarion to the Licence Appeal Tribunal. An appeal must be filed within 15 days of receiving Tarion's Notice of Proposal. The Notice of Proposal document will explain the steps required to initiate an appeal.

Questions

If you have any questions about the processes outlined in this Bulletin, contact the Customer Service department at 1-877-9-TARION, (1-877-982-7466) or email us at customerservice@tarion.com.

Accessibility

Tarion's [Accessible Customer Service Policy](#) ensures that each person with a disability is considered individually, on a case-by-case basis, in order to determine accommodation requirements. Please do not hesitate to contact us at via any of the methods outlined in the Policy if you require accommodation within the application process or the BuilderLink portal.

Registrar

"Peter Balasubramanian"