

## CONSTRUCTION PERFORMANCE GUIDELINES FOR THE ONTARIO HOME BUILDING INDUSTRY

This bulletin replaces Builder Bulletin 40, which introduced the first edition of the Construction Performance Guidelines (the “Guidelines”) on April 2, 2003. This revised Builder Bulletin 40 is being issued in conjunction with the publication of the second edition of the Guidelines.

### WHAT THIS BULLETIN IS ABOUT

The Guidelines provide information on the requirements of the warranties described in the *Ontario New Home Warranties Plan Act* (the “statutory warranty”). The Guidelines are intended to be a communication tool in the form of a handy reference guide for builders and homeowners. The purpose of the Guidelines is not to set new standards, but to provide advance information as to how the Ontario New Home Warranty Program (the “Warranty Program”) will render decisions regarding disputes between builders and homeowners about work or materials.

The Guidelines were developed in consultation with various industry experts and following extensive research into the construction performance standards used by other North American new home warranty programs. The proposed Guidelines were then scrutinized by a sub-committee of Ontario Home Builders’ Association (“OHBA”) members, various technical experts, Warranty Program Board members and staff to ensure they were appropriate for Ontario.

### A MORE OBJECTIVE WAY TO RESOLVE WARRANTY DISPUTES

When it comes to home construction, builders and homeowners approach matters from different perspectives, so they don’t always see eye to eye. In most cases, a builder and a homeowner can work together and resolve warranty problems in a friendly, professional way. When issues can’t be resolved, the Warranty Program, at the request of a homeowner or builder, will step in to settle the matter. (A homeowner can ask the Warranty Program to investigate a dispute which the Warranty Program may decide requires conciliation, or a builder may request a warranty review.)

The Guidelines have been published and made accessible to both builders and homeowners to provide a clear understanding of how Warranty Program representatives make decisions about warranty disputes. Until publication of the Guidelines, these decisions were based on their expertise and knowledge of industry standards including those in the Ontario Building Code (the “Code”).

## HOW THE GUIDELINES CAN HELP BUILDERS AND HOMEOWNERS

The Guidelines can help a builder and a homeowner understand how the Warranty Program evaluates warranty disputes as well as assist in other ways.

### The Guidelines can help builders:

- establish the construction standard that their trades must adhere to (builders can reference the Guidelines in their contracts with their trades);
- assess their own work, and that of their trades; and,
- answer queries from homeowners in a way that is seen to be objective.

### The Guidelines can help homeowners:

- understand what is and is not covered under the statutory warranty in their new home; and,
- determine if items in their home have been installed and are working properly.

## STANDARDS IN THE GUIDELINES

The Guidelines contain two types of standards for assessing components of the home:

### 1. Standards Based on Measurement

These apply to anything that can be measured. For example:

#### 12.2

#### **Condition: Floor is Uneven**

#### **Acceptable Performance/Condition**

Applied finished flooring shall be installed without *visible* ridges or depressions. Where visible ridges or depressions occur, the variation from the *specified plane* shall not exceed +/- 6 mm.

#### **Warranty**

One Year – Work and Material

- Ridges and depressions caused by *normal* shrinkage of materials are excluded from the statutory warranty

#### **Action**

*Visible* ridges or depressions exceeding the acceptable condition shall be *repaired*.

#### **Remarks**

The *homeowner* must maintain finished flooring in accordance with manufacturer's recommendations and prevent the accumulation of water on flooring.

## **2. Standard Based on Construction Performance**

These apply to items that cannot be measured. For example:

### **1.14**

#### **Condition: Foundation Wall Leaks**

#### **Acceptable Performance/Condition**

Foundation walls shall allow no water penetration.

#### **Warranty**

Two Year – Basement Water Penetration

- Water leakage resulting from improper maintenance, exterior grade alterations made by the *homeowner*, an act of God or failure of municipal services or other utilities is excluded from the statutory warranty. Secondary damage to property or any personal injury resulting from the water penetration is also excluded from the statutory warranty.

#### **Action**

Water penetration through the basement or foundation shall be *repaired*.

#### **Remarks**

Only actual water penetration through the foundation is warranted; dampness caused by condensation or other causes is not considered to be water penetration and is not covered by the statutory warranty. The *homeowner* must take immediate steps to prevent damage to their property and report any losses to their *home* insurance provider.

## **HOW THE GUIDELINES ARE USED IN WARRANTY DISPUTES**

When the Warranty Program becomes involved in a warranty dispute between the builder and the homeowner, the Guidelines will be consulted.

If the dispute relates to something that is found not to meet the standards laid out in the Guidelines, the Warranty Program will decide that remedial work needs to be done. In such case, the builder is responsible for making repairs.

If the dispute relates to something that is found to meet or exceed the standards laid out in the Guidelines, the Warranty Program will decide that no remedial work needs to be done. In such case, the builder is not responsible for making repairs.

On those occasions where a standard does not apply, the Warranty Program, using good industry practice will decide if something is covered under the statutory warranty.

The Guidelines contain standards that apply to most new homes in Ontario, but given the wide variety of homes that are built, it would be impossible for standards to apply to every type of home or every component of construction.

## **WHEN THE GUIDELINES WILL BE APPLIED**

The Guidelines apply to conciliations (including warranty reviews) and claim inspections related to deficiencies in work and material conducted by the Warranty Program on or after April 2, 2003. The first edition of the Guidelines will apply to a conciliation or claim inspection conducted between April 2, 2003 and November 30, 2003 and the second edition will apply to a conciliation or claim inspection conducted on or after December 1, 2003 until the effective date of the next edition of the Guidelines.

## **THE GUIDELINES WILL CHANGE OVER TIME**

The Guidelines will be reviewed periodically and expanded or updated to reflect legislative changes and/or changes in construction materials and technologies. Over the years, new editions of the Guidelines will be published. The Warranty Program will base its decisions on the most recent edition of the Guidelines in effect at the time that a conciliation (including a warranty review) or claim inspection is conducted.

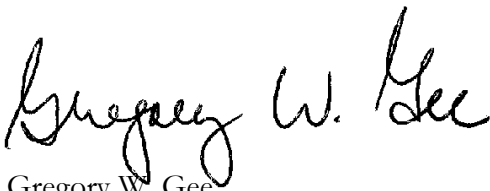
The effective date of each edition is set out on both the front cover and on the bottom of every page in the Guidelines. For example, the front cover of the first edition states that it is effective April 2, 2003, and the front cover of the second edition states that it is effective December 1, 2003.

## **MAKE SURE YOU HAVE THE CORRECT EDITION**

The most recent edition of the Guidelines is available on the Warranty Program Web site at [www.newhome.on.ca](http://www.newhome.on.ca) or by calling 1-800-668-0124.

## **FOR MORE INFORMATION**

If you have any questions about the Guidelines, please contact the Warranty Program at 1-800-668-0124. A member of our staff will be happy to assist you.



Gregory W. Gee  
Registrar

# ONTARIO NEW HOME WARRANTY PROGRAM

## CONTACT INFORMATION

**Toll Free: 1-800-668-0124**

**Web site: *www.newhome.on.ca***

**Email: *info@newhome.on.ca***

### **CORPORATE OFFICE**

5160 Yonge Street, 6<sup>th</sup> Floor  
TORONTO ON M2N 6L9  
Telephone: 416-229-9200  
Fax: 416-229-3800

### **CONDOMINIUM OFFICE**

1091 Gorham Street  
NEWMARKET ON L3Y 7V1  
Telephone: 905-836-6715  
Fax: 905-836-0314

### **EAST CENTRAL REGION**

1091 Gorham Street  
NEWMARKET ON L3Y 7V1  
Telephone: 905-836-5700  
Fax: 905-836-5666

### **NORTHWEST REGION**

1205 Amber Drive, Suite 206  
THUNDER BAY ON P7B 6M4  
Telephone: 807-345-2026  
Fax: 807-345-2014

### **EASTERN REGION**

1600 Scott Street, Suite 400  
OTTAWA ON K1Y 4N7  
Telephone: 613-724-4882  
Fax: 613-724-3669

### **SOUTHWEST REGION**

140 Fullarton Street, Ground Floor  
LONDON ON N6A 5P2  
Telephone: 519-660-4401  
Fax: 519-660-3556

### **NORTHEAST REGION**

1895 LaSalle Blvd.  
SUDBURY ON P3A 2A3  
Telephone: 705-560-7100  
Fax: 705-560-7111

### **WEST CENTRAL REGION**

2 County Court Blvd., Suite 435  
BRAMPTON ON L6W 3W8  
Telephone: 905-455-0500  
Fax: 905-455-0169