



October 23, 2019

Dear Registrant:

Registrar's Advisory – New Mandatory Condo Information Sheet and Upcoming Changes to the Ontario Builder Directory

On February 20, 2019, the Ministry of Government and Consumer Services announced new initiatives to better inform purchasers about the risks of buying a residential unit in a pre-construction condominium project, including enhanced disclosure and additional information about condominium projects on the Ontario Builder Directory.

You are currently a registered vendor of a condominium project. Please make note of the following information.

New disclosure requirements for certain condominium purchase agreements

After receiving public feedback this spring and at the direction of the Ministry, important information on the possible risks of pre-construction condominiums will soon be highlighted for purchasers in an information sheet (template attached). Effective January 1, 2020, it will be a term and condition of registration that this condo information sheet be completed and placed at the front of the agreement of purchase and sale, and, together with the Tarion Condominium Addendum forms part of your Purchase Agreement. Purchasers must sign the document to acknowledge having received and read the document. This document is necessary for new condominium projects¹ going forward where the project has conditions that may result in its cancellation. For each such project, the document must be attached to each purchase agreement so long as the project remains conditional.

¹ It applies to condominium projects where the first arm's length purchase agreement for: the project, or phase of a project is signed on or after January 1, 2020. The information sheet must be used with every Purchase Agreement for a residential unit in a standard condominium corporation and phased condominium corporation.

New condominium project search on the Ontario Builder Directory

Effective October 23, 2019, the Ontario Builder Directory will be updated to include certain information about condominium projects. This will include information about any cancelled condominium projects retroactive to January 1, 2018.

The new condominium project section of the directory will display projects that are completed, in progress, cancelled and/or in legal proceedings. Projects that are completed will be displayed as such based on the date the condominium corporation is registered. Projects that are in progress will be displayed as such once security has been collected by Tarion. For projects that are cancelled the directory will display details of the cancellation including the number of purchase agreements cancelled and a sample letter sent by the vendor to purchasers advising of the cancelled purchase agreements. Note that you will be required to provide Tarion with your letter to purchasers and the letter will need to clearly state the reason(s) for the cancellation of purchase agreements and/or the early termination conditions relied upon (if applicable).

For the purposes of this directory:

A project is considered “Cancelled” when Tarion is advised the project will not proceed. Agreements of purchase and sale (APSs) in connection with a project will be noted as terminated where they have been terminated because:

1. one or more of the following conditions in the APSs have not been satisfied:
 - necessary development approvals are not obtained;
 - specified sales threshold is not attained; and/or,
 - satisfactory financing for the project is not obtained; or
2. the project will not proceed because of an event or circumstance which results in APSs becoming incapable of completion at law (e.g. frustration of contract).

You will be required to provide information about agreements of purchase and sale that are “cancelled” as defined above, whether or not the whole project is cancelled.

However, for clarity, characterization as “cancelled” will not extend to APSs where the APS is terminated: 1) by voluntary mutual termination agreement; or 2) because the purchaser does not satisfy a good faith condition in the APS that the purchaser has the financial resources to complete the transaction; 3) where the purchaser has terminated pursuant to a right set out in the APS or the *Condominium Act (1998)*; or 4) through termination due to the default of the purchaser. In each case, upon request of Tarion the vendor is required to provide evidence to Tarion to establish the circumstances.

The directory will also indicate whether a Project is in “Legal Proceedings” which expression means legal, court or other proceedings, including, without limitation, private or court-supervised receiverships, power of sale, creditor protection, insolvency, restructuring, bankruptcy and

other proceedings under one or more of the *Companies' Creditors Arrangement Act*, the *Bankruptcy and Insolvency Act*, the *Construction Act*, the *Personal Property Security Act* (Ontario), the *Mortgages Act*, the *Courts of Justice Act*, the *Business Corporations Act* (Ontario) or the *Canada Business Corporations Act* or other legal proceedings, that Tarion in its discretion determines to be relevant to a proposed new condominium project, in each case to the extent the matter has been reported to Tarion and written supporting materials have been provided to Tarion.

Section 4.3 of your Vendor Agreement provides that you will be given 15 days' notice when a report on vendor performance or compliance will be posted. You should note that Section 4.3 does **not** apply to the posting of condo projects including cancellations, as this information on its own is not considered a report on vendor performance or compliance. Rather, it is factual information that may be of interest to potential purchasers.

For any inquiries, please contact the Licensing and Underwriting Department:

- 416-229-3844 ext. 3001 or toll free at 1-877-982-7466 ext. 3001
- L&U@Tarion.com

Signed,



Howard Bogach
Registrar, Ontario New Home Warranties Plan