

# Builder Bulletin 28

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## Tarion Requirements for Receipt and Release of Security

This Bulletin replaces Builder Bulletin 28 (Revised), which became effective on February 1, 2003.

### WHAT THIS BULLETIN IS ABOUT

Tarion Warranty Corporation (“Tarion”) carries out assessments of builders to ensure that registered builders are able to meet all financial and warranty obligations. Builder Bulletin 28 defines the parameters of that process and the amounts and conditions for the security, which may be required of builders as a condition of registration.

Security is used by Tarion to mitigate losses resulting from builder failures so that funds from registration and enrolment fees are available to pay for ongoing warranty claims and those caused by unforeseen circumstances. The bulletin is revised periodically to ensure it is current, fair to builders and consistent with other Tarion policy.

#### Reasons for the March, 2009 Revision

Changes have been made to reflect the policy change that for any Deposit Trust Agreements approved and received on or after May 1, 2009 an administration fee of \$500 is payable to Tarion for each agreement. The Bulletin is also updated to replace references to ONHWP with Tarion.

#### Reasons for the February, 2003 Revision

As of February 1, 2003, new home buyers will be protected for up to \$40,000 under the Ontario New Home Warranties Plan Act for the refund or loss of a deposit on a freehold home or for financial loss on a contract home. Freehold security requirements, for those builders who are required to post security with Tarion, and who take deposits in excess of \$20,000, have been adjusted based on the increase in deposit coverage above.

#### Impact of the July, 2001 Revision

The primary goal of the July, 2001 revision was to have a more open, accurate process for assessing builders. The results have been lower but better-targeted security for Tarion and a fairer process for builders. The current process is more precise but flexible for assessing builders and administering the potential security requirement. The revisions also introduced updated criteria for evaluating a builder’s demographic traits and more standard procedures for analyzing a builder’s financial information. As a result, these enhancements have facilitated a reduction in the security required of many average and low risk builders.

Specifically, the revised Bulletin has refined the criteria for builder size and tenure. It has reduced the weight of the business/technical evaluation and has increased the weight of the builder’s tenure. It more openly defines the review of the builder’s financial information and introduces additional segmentation of condominium builders. This has allowed a reduction in the warranty security required of most average and low risk builders. The revisions also introduced additional instruments to help low risk builders further reduce the cost of providing security to Tarion.

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## BACKGROUND

In 1995, Tarion reviewed its security policy to incorporate the security requirements set out in:

- Builder Bulletin 19 – High-Rise Condominium Projects: Design & Site Review Reporting
- Builder Bulletin 30 – Expanded Registration Requirements
- Builder Bulletin 33 – Certification of Private Sewage Disposal Systems

At the request of builders, Tarion also established objective requirements for the type, amount, taking and release of security; to take the performance of builders into account.

In 2000, Tarion undertook a further review to enhance the mechanisms used for assessing builders and to adjust security requirements based on updated analysis of claim trends and risks associated with various market segments. The Bulletin issued in July, 2001, as well as the current Bulletin, incorporate the revisions that came out of that review.

Tarion wishes to extend its thanks to the Ontario Home Builders' Association (OHBA) for its extensive input into the recent revisions. The requirements of this bulletin do not necessarily represent the consensus of all groups. However, the comments and ideas of all who participated were considered carefully during the review. In particular we wish to thank the Tarion Board's Risk Advisory Committee and the OHBA/Tarion Liaison Committee's Bulletin 28/Indemnity Sub-Committee for its extensive work related to the revisions.

All references to "vendor/builder" in this Bulletin may refer to a vendor or a builder of new homes. Nothing in this Bulletin shall be construed to limit the authority of the Registrar to increase or decrease security requirements.

## RISK ASSESSMENT FOR ALL BUILDERS

Tarion's security requirements for all vendor/builders will be assessed on registration and renewal and when appropriate under the stipulations outlined in the Vendor and Builder Agreements, between periods of renewal. With respect to vendor/builders of multiple condominium projects under a single registered company, each project will be assessed 60 days prior to the signing of the Agreements of Purchase and Sale and/or the taking of deposits for each project. All assessments will be based on a detailed review of the vendor/builder's history according to the following criteria:

- **Size** (the annual average number of possessions over the last 5 years including associated companies)
- **Tenure** (the number of consecutive years of registration, including associated companies)
- **Business and Technical skills** (based on the "new" and "problem builder" definitions set out in Builder Bulletin 31 and Builder Bulletin 36 (Revised) – Rating Criteria for After Sales Service)
- **Financial information** (review of financial statements, credit rating and payment history)
- **Project type** (proposed freehold and condominium types)

Points out of a total of 100 will be assigned to these criteria as follows:

SIZE (0 – 10) Points) CONDOMINIUM Construction <sup>2</sup>		
Small (1 to 24 units per year) <sup>1</sup>	Medium (25 to 99 units per year) <sup>1</sup>	Large (100+ units per year) <sup>1</sup>
3 points	6 points	10 points

1 Based on average annual possessions over the past 5 years. If no possessions, 0 points will be assigned. Economic considerations will be applied when appropriate.

2 Applicants building condominium Type A or B (see page 7, Fig 4) and building in excess of 49 units may seek review of points allotted for "size" with Tarion's Licensing and Underwriting Department.

OR

SIZE (0 – 10 Points) FREEHOLD Construction		
Small (1 to 19 units per year) <sup>1</sup>	Medium (20 to 49 units per year) <sup>1</sup>	Large (50+ units per year) <sup>1</sup>
3 points	6 points	10 points

1 Based on average annual possessions over the past 5 years. If no possessions, 0 points will be assigned. Economic considerations will be applied when appropriate.

TENURE (0 – 20 Points)			
New builders	1 to 3 years	4 to 5 years	6 years+
0 points	6 points	12 points	20 points

BUSINESS/TECHNICAL SKILLS (0 – 20 Points)				
Rating Criteria for After Sales Service <sup>1</sup>		New Builder		Problem Builder
Excellent (10 or more years)	20 points			
Excellent (5 to 9 years)	18 points			
Excellent (less than 5 years)	16 points	Assessment Rating When Registered		
Above Average	13 points	High Skill	10 points	
Average	10 points	Average Skill	7 points	
Below Average	0 points	Low Skill	0 points	0 points

1 The Business/Technical Skills score for new builders is based on the Assessment Rating when registered. On renewal, the Rating Criteria for After Sales Service will apply, if available (see Builder Bulletin 36)

<b>FINANCIAL INFORMATION (0 – 50 Points)</b>			
High Risk <sup>1</sup>	Above Average Risk <sup>1</sup>	Average Risk	Low Risk
0 – 9 points	10 – 15 points	16 – 35 points	36 – 50 points

<sup>1</sup> Vendor/builders who obtain a High Risk Financial Information score are refused registration or revoked.

The points for a builder's financial information are based on a two-step analysis of the available information. Builders with assets in excess of \$5 million or annual revenues in excess of \$10 million are required to provide reviewed financial statements. Tarion may waive this requirement where appropriate.

The determination of points is based on the following:

- Equity Per Unit (0 – 30 points)
- Financial Assessment and/or Credit History (0 – 20 points)

A detailed example of how each of these components or calculations would apply is presented on page 6 of this Bulletin.

### Equity Per Unit

The points for equity are based on the extent to which the builder meets or exceeds the average Suggested Minimum Equity (per unit) (see Fig. 1). This is determined by a detailed analysis of the builder's equity and the units, which the builder's financial capacity would need to support.

First, Tarion analyzes the builder's equity and translates it to equity per unit. Builder equity consists of the equity of the registrant and that of individuals or companies providing an Indemnity. The units represent all homes the builder intends to sell, close or build during the coming year plus those that are under the first year of warranty at the time of assessment. Note: the homes under warranty are counted on a ¼ basis (i.e., 4 homes are counted as 1 unit).

The equity per unit is then compared to the average Suggested Minimum Equity (per unit) for this builder. It is calculated using 3 important criteria: the number of units, the average sale price of all homes and a diminishing scale of equity requirement (as outlined in column 1 of Fig. 1). Minimum and maximum sale price caps are in place to ensure fairness for all builders.<sup>1</sup>

Fig. 1

<b>Suggested Minimum Equity (per unit)</b>	<b>% of Average Sale Price<sup>1</sup></b>
1 <sup>st</sup> to 5 <sup>th</sup> unit	15.0
6 <sup>th</sup> to 20 <sup>th</sup> unit	11.5
21 <sup>st</sup> to 50 <sup>th</sup> unit	9.5
51 <sup>st</sup> to 100 <sup>th</sup> unit	7.5
Greater than 100 units	4.5

<sup>1</sup> Home sold for less than \$100,000 will be counted as \$100,000. Those sold for more than \$250,000 will be counted as \$250,000.

Once the builder's equity (per unit) and their Suggested Minimum Equity (per unit) are calculated, the two are compared. The result is a ratio, which is measured against the following table (Fig. 2). This will determine the points the builder will receive for the equity component of this analysis.

An Indemnity is required if the registrant does not meet the Suggested Minimum Equity or has not been registered for 5 years or more. Note that the builder's equity consists of the equity of the registrant and that of individuals or companies providing an Indemnity. A builder who is unable to produce half the suggested minimum equity is refused registration or has it revoked. Any builder may substitute the requirement for an Indemnity by providing security of \$20,000 to \$40,000 per unit, depending on the amount of deposit to be taken. The amount would be reduced as the unit progresses through the warranty periods. This reduction would be determined on a case-by-case basis.

Fig. 2

<b>Ratio to Suggested Minimum Equity</b>	<b>Financial Points</b>
Less than 0.50	0
0.50 to 0.74	6
0.75 to 0.99	9
1.00 to 1.24	12
1.25 to 1.49	15
1.50 to 1.74	18
1.75 to 2.00	21
2.00 to 2.99	24
3.00 to 4.99	27
5.00 plus	30

### **Financial Status and/or Credit History**

Up to 20 points will be assigned to builders based on careful analysis of their financial statements and/or their credit history, although it may be a combination of both. Generally, builders who are corporations, joint ventures or partnerships will be assessed through careful analysis of their financial statements. Builders who are sole proprietors or who have personal indemnitors or guarantors will generally be assessed by their credit history.

To convert financial information into points Tarion utilizes standard financial analysis tools (i.e., ratios) and/or the scores assigned by independent credit bureaus. Analysis of financial statements may include various financial tests to determine debt load, liquidity, profitability, sales growth and other changes in financial position or status. The result of Tarion's analysis is available to the builder.

Here is an example of how the Risk Assessment scoring works:

Fig. 3

SAMPLE BUILDER PROFILE			Score
Type of Construction	Freehold		
Size of Builder	Small	12 possessions per year (average of last 5 years)	3
Tenure of Builder	5 years	Number of years registered with Tarion	12
Business/Technical Skills	Excellent Rating for After Sales Service		16
Financial Information	Calculated units <sup>1</sup>	+15 proposed units for year +12 in 1 <sup>st</sup> year warranty @25% =18 calculated units	
	Average Sale Price	\$175,000	
	Suggested Minimum Equity (SME)	First 5 units at 15% = \$26,250 next 13 units at 11.5% = \$20,125 = ((5x\$26,250)+(13x\$20,125))÷18 = average of \$21,826 per unit	
	Builder's equity	\$250,000 divided by 18 units = \$13,889	
	Ratio to SME	\$13,889 divided by \$21,826 = 0.64	
	Financial Points (for equity)	Ratio of 0.64 = 6 pts. (see Fig.1)	
	Financial Points (for other info) <sup>2</sup>	Excellent credit history & strong financials = 20 pts.	
	<b>Total Financial Score</b>		<b>26</b>
<b>Risk Assessment Score</b> A freehold builder who scores between 51 and 75 points is rated <u>average</u> risk and is not required to post security (see page 7, Fig. 5).			<b>57</b>

1 The units represent all homes the builder intends to sell, close or build during the coming year plus those that are under the first year of warranty at the time of assessment. Note: the homes under warranty are counted on a ¼ basis (i.e., 4 homes are counted as 1 unit).

2 This may include various financial tests to determine credit history, debt load, liquidity, profitability, sales growth and other changes in financial position or status.

## SECURITY REQUIREMENTS

Security Requirements for all vendor/builders are based on their total score for Size, Tenure, Business/Technical Skills and Financial Information. Depending on the unit type proposed, vendor/builders are assessed a security amount from \$0 to \$20,000 per unit or are refused registration or revoked based on their total score.

In order to ensure fairness and to match the risk of products to security requirements, the following categories will apply to all condominiums.

Fig. 4

Category	Description
Condo: Type A	Project has only Part 9 OBC construction requirements and is a lot-line condominium.
Condo: Type B	Project has only Part 9 OBC construction requirements and is NOT a lot-line condominium.
Condo: Type C	Project has both; Part 9 and Part 3 OBC construction requirements.
Condo: Type D	Project has only Part 3 OBC construction requirements.

Note: If a project has a risk profile that is unique, meaning it does not reflect the characteristics of other projects in the identified category (Fig. 4) Tarion will assign it to an appropriate category.

The following table outlines the security requirements for freehold and condominium builders:

Fig. 5

		SECURITY REQUIREMENTS (MAXIMUM 100 POINTS)				
		Very High Risk	High Risk	Average Risk		Low Risk
		0 – 12 points	13 – 25 points <sup>2</sup>	26 – 50 points <sup>2</sup>	51 – 75 points <sup>3</sup>	76 – 100 points <sup>3</sup>
<b>CONDOMINIUM<sup>1</sup></b>	<b>FREEHOLD</b>	Refuse/Revoke	\$10,000 <sup>5</sup>	\$5,000 <sup>4</sup>	\$0	\$0
	Type A	Refuse/Revoke	\$10,000	\$5,000	\$0	\$0
	Type B	Refuse/Revoke	\$15,000	\$7,500	\$2,500	\$0
	Type C	Refuse/Revoke	\$20,000	\$10,000	\$5,000	\$0
	Type D	Refuse/Revoke	\$20,000	\$15,000	\$7,500	\$2,500

- For condominiums this chart represents security requirements for warranty coverage; the greater of the value of the deposits taken or security to the level outlined in this chart is required to cover deposits if the DTA is not used.
- Deposit Trust Agreement (DTA) is not an option for condominium builders included in this category. Tarion may waive that stipulation where appropriate.
- DTA is an available option for condominium builders included in these categories.
- For freehold builders taking deposits in excess of \$20,000, this number is increased to \$10,000 per unit.
- For freehold builders taking deposits in excess of \$20,000, this number is increased to \$15,000 per unit.

The requirements outlined in Fig. 5 cover all security required during the marketing, construction and warranty phases in freehold construction. For condominiums, Fig. 5 reflects only the construction and warranty phases. Security to fully cover the deposits taken by the builder, to a maximum of \$20,000 per unit, is required for all condominiums (or use of the Deposit Trust Agreement).

## BLANKET SECURITY

All security instruments are specific to a registration unless otherwise determined. This means that it covers any obligation of the registrant and is not specific to individual units. The concept is called blanket security and applies to both freehold and condominium builders. Additional blanketing of security to the umbrella level or to groups of registrations, which are not part of an umbrella but which have common principles, officers or directors will be considered by Tarion, at the request of the registrant. Consolidating security in this manner may result in a

reduction of the standard security requirements (up to 30%) if the builder is an average or low risk builder. Reductions will be considered on a case-by-case basis by Tarion, who will base its decision on the builder's performance (scores) in each area of the risk assessment and the companies or projects included in the blanketed group.

Reviews for the release of blanket security for freehold builders will be done annually, at the time of renewal. It will be based on the ongoing risk assessment for the individual registration, associated group of companies or Umbrella Company. For individual condominium projects the release of warranty security will be tied to the Builder Bulletin 19 Final Report (as outlined in Builder Bulletin 19) or to the end of the first year warranty period (as outlined in Builder Bulletin 38).

## COLLATERAL SECURITY

Mortgages are an acceptable form of security, provided the builder is assessed as a low risk builder and the asset under consideration meets all the requirements of Tarion collateral security terms. All costs for establishing this security will be assumed by the builder.

Assets, which qualify for collateral security, must be real property. Assets like automobiles, equipment or recreational vehicles are NOT acceptable assets for collateral security.

Tarion reserves the right to limit this option in any specific instance. Applicants interested in this option must contact Tarion's Licensing & Underwriting Department for further details.

## CONDOMINIUM PROJECTS

The following chart outlines Tarion's requirements for the taking of security for condominium projects:

Fig. 6

<b>SECURITY REQUIREMENTS FOR CONDOMINIUM PROJECTS</b>
<p><b>Security Requirements are Determined</b></p> <ul style="list-style-type: none"> <li>• On initial registration</li> <li>• Annually on renewal of registration</li> <li>• When any new condominium project is proposed</li> <li>• When there is a change in principals or history</li> </ul>
<p><b>Types of Security</b></p> <ul style="list-style-type: none"> <li>• Deposit Trust Agreement (DTA)</li> <li>• Standard project security instrument</li> <li>• Standard blanket security instrument</li> <li>• Type of security required is determined by Risk Assessment</li> </ul>
<p><b>Standard Security</b></p> <ul style="list-style-type: none"> <li>• Available to vendor/builders who do not wish to use or do not qualify for DTA</li> <li>• All vendor/builders must post a standard security instrument equal to the greater of the average deposit received per unit and the security amount per unit determined by Risk Assessment.</li> </ul>
<p><b>Deposit Trust Agreement (DTA)<sup>1</sup></b></p> <ul style="list-style-type: none"> <li>• Available to all vendor/builders with scores of 51 points or more (see Deposit Trust Agreement and Escrow Agents on page 9).</li> </ul>
<p><b>Conversion of DTA to Standard Security</b></p> <ul style="list-style-type: none"> <li>• The DTA may be replaced by standard security at any point during the marketing or construction phases (see Conversion of DTA to Standard Security on page 10).</li> </ul>
<p><b>Deadline</b></p> <ul style="list-style-type: none"> <li>• At the start of the Project's marketing (the taking of deposits and/or the signing of Agreements of Purchase and Sale) the vendor/builders must submit either a DTA or standard security</li> </ul>

<sup>1</sup> Fairness and accuracy are paramount to Tarion's underwriting process. Tenure is an important consideration. To this extent Tarion will apply discretion where required to ensure that the requirements properly reflect the underwriting risk present in each assessment.



## Deposit Trust Agreement and Escrow Agents

A Deposit Trust Agreement (DTA) is an agreement between the vendor/builder, the escrow agent and Tarion that sets out how purchasers' deposits will be held in trust. The escrow agent administers the trust.

DTAs are available to condominium builders except those with overall Risk Assessment points of 50 points or less. Tarion may waive this stipulation where appropriate. Tarion will advise condominium builders if they qualify for a DTA and will provide the appropriate documentation for the builder to complete. If a condominium builder or vendor qualifies for use of a DTA, a fee of \$500 (plus applicable taxes) is payable to Tarion for each agreement received by Tarion.

The DTA must be in place before the taking of deposits and/or the signing of Agreements or Purchase and Sale. In order to enter into a DTA a vendor/builder must select an escrow agent (usually a law firm) which is comprised of 3 partners or more or which meets Tarion's requirements for insurance of firms acting as an escrow agent and pay the DTA fee noted above. The escrow agent reports to Tarion but is paid by the vendor/builder.

All monies received (up to \$20,000 per unit) by the vendor/builder from the purchase under an Agreement of Purchase and Sale must be held in trust by the escrow agent. All these monies must be made payable to the escrow agent in trust. This requirement must be set out in the Agreement of Purchase and Sale.

Vendor/builders must comply with the *Condominium Act* (as amended from time to time) by placing excess deposits over \$20,000 per unit in either:

- A separate trust account, or
- The trust account administered by the escrow agent, or
- Obtain excess deposit insurance

Any excess deposits over \$20,000 per unit, which have been placed in the trust account administered by the escrow agent, will only be released once the agent has received proof that Excess Condominium Deposit Insurance has been obtained or that it will be held in trust.

Vendor/builders and escrow agents will each submit monthly reports to Tarion 15 (fifteen) business days after month end. Tarion may waive this condition where appropriate. The reports will detail the following information for the preceding month:

- Unit number
- Purchaser(s) name(s)
- Date of Agreement of Purchase and Sale
- Date and amount of each deposit
- Date and amount of each deposit refunded, if applicable. (Deposits refunded by the escrow agent within the same month should appear as an inflow or outflow).
- Total amount of deposits received to-date
- Total amount of deposits required under Agreement(s) of Purchase and Sale
- Total units sold in the month
- Total unit sales terminated in the month
- Total net unit sales to-date
- Grand total deposits received to-date and remitted to the escrow agent

Two statutory declarations must accompany the vendor/builder's monthly report. One statutory declaration made by the vendor/builder's senior officer will state the information included in the report is true. All refunds to purchasers made prior to the delivery of funds to the escrow agent must be noted in the vendor/builder's monthly report and confirmed in the statutory declaration. The second statutory declaration made by the vendor/builder's lawyer will state that he or she has no knowledge of any facts that would make the senior officer's declaration untrue.

The escrow agent must receive all deposits within 15 (fifteen) business days after they are received by the vendor/builder. The escrow agent may refund deposits, without authorization from Tarion, on receiving written direction from the vendor/builder and a Mutual Release and Termination Agreement signed by both the purchaser(s) and the vendor/builder. A Mutual Release and Termination Agreement is not required for purchaser(s) who rescind their Agreement of Purchase and Sale within the ten-day cooling off period granted by the *Condominium Act* (as amended from time to time).

### **Conversion of DTA to Standard Security**

The DTA may be converted at any point to one of the forms of standard security listed below. All units must be enrolled and the enrolment fees paid before construction begins.

The amount of security required at the time of conversion will be the greater of:

1. The average deposit per unit required under the signed Agreements of Purchase and Sale and not including monies paid at interim occupancy, or
2. The security amount per unit determined by Risk Assessment. This amount will not exceed \$20,000 per unit. The security will remain in place during the construction period and will be available initially for all the vendor/builders' obligations, in addition to deposit and warranty liability.

### **Standard Security**

Standard security can be posted as follows:

- a) Irrevocable Letter of Credit (Tarion format)
- b) Surety Bond (Tarion format)
- c) Letter of Guarantee (Tarion format)
- d) Cash or certified cheque
- e) Other acceptable security as required by the Registrar

Vendor/builders who either do not wish to use a DTA or who do not qualify for a DTA must post one of the above forms of standard security at the start of marketing (i.e., the taking of deposits and/or the signing of Agreements of Purchase and Sale). The security amount per unit is the greater of the average deposit per unit or the amount determined by Risk Assessment.

### **Release of Security**

The security amount per unit determined by Risk Assessment compared to the average or maximum deposit per unit will determine how security is released.

The following example sets out how security is released if the security amount assessed per unit is greater than the average deposit per unit taken:

If the security amount assessed is \$15,000 per unit and the average deposit per unit is \$5,000 then the full security of \$15,000 per unit will remain in place to cover warranty claims.

The following example sets out how security is released if the security amount assessed per unit is less than the average deposit per unit taken:

If the security amount assessed is \$5,000 per unit and the average deposit per unit is \$15,000, then \$10,000 per unit will be released following condominium registration, and title transfer. The remaining \$5,000 per unit will be available for use against warranty obligations. Once 50% of the available units are closed (i.e., title transfer) or 60 days after registration of the condominium corporation, the remainder of the difference between the Risk Assessment amount and the

average deposit amount will be released for all units. Whichever event occurs first shall initiate the release of the security, provided there are no outstanding closing or other issues with the project.

### **Release Timelines (Condominiums – Types A & B)** (Including Builder Bulletin 38 Projects)

Security, as determined by Fig. 5, for condominium Types A and B will remain in place for one year after the condominium has been registered unless the condominium corporation has submitted an acceptable pre-approved Bulletin 19-type audit and all issues have been resolved to the satisfaction of Tarion. If all issues are resolved, security will be released within 45 days of the acceptance of the Bulletin 19-type audit or the end of the first year after condo registration. If issues remain unresolved security will remain in place for longer, as determined by the Registrar.

### **Release Timelines for Builder Bulletin 19 Projects (Condominiums – Types C & D)**

Security related to Builder Bulletin 19 projects will remain in place until the Builder Bulletin 19 Final Report has been received and accepted by Tarion. Tarion will then release security as outlined in Builder Bulletin 19.

### **Cancelled Condominium Projects**

The following documentation is required for the termination of the DTA or the release of security on cancelled condominium projects:

- a) Statutory Declaration by the vendor/builder that all deposits have been refunded
- b) Mutual Release and Termination Agreements signed by each purchaser and the vendor/builder (Tarion format)
- c) Statutory Declaration from the escrow agent confirming that all deposits have been refunded under the DTA
- d) Return of any unused Tarion Deposit Receipts for unsold units
- e) Signed Condition of Registration letter by the vendor/builder stating that he or she will not sell or construct condominium units without Tarion's knowledge and approval

If enrolment fees are refunded, Tarion will retain an administration fee of \$50 per enrolment to a maximum of \$1,000 per project, plus applicable tax.

## **FREEHOLD CONSTRUCTION**

Fig. 7

<b>SECURITY REQUIREMENTS FOR FREEHOLD UNITS</b>
<p><b>Security Requirements are Determined</b></p> <ul style="list-style-type: none"> <li>• On initial registration</li> <li>• Annually on renewal of registration</li> <li>• When there is a change in principals or history</li> </ul>
<p><b>Types of Security</b></p> <ul style="list-style-type: none"> <li>• Standard blanket security</li> </ul>
<p><b>Standard Security</b></p> <ul style="list-style-type: none"> <li>• All vendor/builders must post standard security equal to the security amount per unit as determined by Risk Assessment</li> </ul>
<p><b>Deadline</b></p> <ul style="list-style-type: none"> <li>• The requirement for Security will be determined upon registration or renewal of the builder. The full required security must be posted as a condition of registration or renewal if the builder is determined to be high risk or very high risk. It may be phased over the course of the year if the builder falls into the average risk category</li> </ul>

## Amount of Security

Security required will not exceed \$15,000 per unit based on Risk Assessment (see Risk Assessment for all Builders on page 3) and is applicable to any obligations of the builder. However, security assessments for private sewage disposal systems and Unenrolled Homes may increase this requirement (see Private Sewage Disposal Systems and Unenrolled Homes on below).

## Standard Blanket Security

Standard blanket security can be posted as follows:

- a) Irrevocable Letter of Credit (Tarion format)
- b) Surety Bond (Tarion format)
- c) Letter of Guarantee (Tarion format)
- d) Cash or certified cheque
- e) Other acceptable security as required by the Registrar

## Release of Security

Security will remain in place for one year after the date of possession and be released within 45 days of this date if all issues are resolved or depending on the Risk Assessment, vendor/builder complaint history and other factors, Tarion may determine an appropriate time to release security before the first year anniversary of the date of possession.

At the builder's renewal date, Tarion will undertake a review of the builder's security requirement. If there are no outstanding issues and the builder's security exceeds the blanket security requirements, all excess security will be released by Tarion within 45 days of the completed renewal.

## Cancelled Freehold Projects

The following documentation is required for the release of security on cancelled freehold projects:

- a) Statutory Declaration by the vendor/builder that all deposits have been refunded
- b) Mutual Release and Termination Agreements signed by purchasers and the vendor/builder
- c) Copies of the front and back of negotiated refund cheques paid by the vendor/builder to all purchasers

If enrolment fees are refunded, Tarion will retain an administration fee of \$50 per enrolment, plus applicable tax.

## PRIVATE SEWAGE DISPOSAL SYSTEMS

Vendor/builders may be required to post security of \$5,000 per unit for all homes enrolled with a private sewage disposal system, in addition to any other security requirements. Consult Builder Bulletin 33 for complete details.

## UNENROLLED HOMES

Unenrolled homes are defined as those homes on which the construction has begun before the unit was enrolled. This is in direct violation of the requirements of the *Ontario New Home Warranties Place Act* (as amended from time to time). A builder must be registered to apply for the building permit and homes must be enrolled forthwith upon the issuance of a building permit. Unenrolled homes are subject to security of \$5,000 per unit in addition to any other security requirement. This additional security will not be released prior to the second anniversary of the date of possession. This security is levied because such activity is illegal and as such has prevented Tarion from evaluating the builder and the project before construction.

## FOR MORE INFORMATION

We encourage you to become familiar with the terms and conditions of registration and enrolment early in your project planning process. In this way Tarion will be able to provide you with the highest level of service.

If you have any questions regarding security requirements, please contact the Licensing & Underwriting Department at (416) 229-3844 or toll free at 1-877-982-7466 or the Tarion Office in your area.

signed

"Howard Bogach"

Registrar