

CONSUMER PROTECTION FOR BUYERS OF NEW CONDOMINIUMS

A headline in an Ontario publication caught my eye and I wondered if this could happen in Manitoba:

"I am closing on my new home in December, and my builder has notified me of a significant price increase to complete the project. I must confirm my interest and sign the new agreement in 5 days, or my original agreement is automatically terminated, is this allowed?"

Manitoba does have a good resource for consumers of all types:

Consumer Protection Office

302-258 Portage Avenue
Winnipeg, Manitoba R3C 0B6
Telephone (Winnipeg and area): 204-945-3800
Toll-free within Manitoba: 1-800-782-006
<https://www.gov.mb.ca/cp/cpo/index.html>

The site has nine specific tips for building or buying a new home https://www.gov.mb.ca/cp/cpo/info/building_new_home.html. All are excellent but for a condominium buyer, two tips stand out:

"Tip #9 – Understand the rules when buying a condominium

- Under Manitoba's Condominium Act there are special rules protecting people who are buying a condominium ("condo") directly from a builder. This includes condos under construction. **The builder must refund any deposit you gave plus any interest earned on your money if you cancel the purchase within seven days during the "cooling-off period".***
- You can also back out of an agreement to purchase as long as it is before you take possession and within seven days of the builder notifying you that a "material change" (e.g.: bankruptcy) has occurred. **If the builder does not notify you about a material change, you can back out of the agreement at any time, as long as you have not yet taken possession.***

Tip #2 – Review your contract and use a real estate lawyer

- Have you read, checked and understood all of your contract documents? Even the small print? If there is anything you don't understand, or items that you think are questionable or missing, get advice from an independent builder, consultant or a real estate lawyer. Make sure you clearly understand what your contractual obligations are, as well as those of your builder, before you sign.*
- Check with an independent professional or builder, or get your own legal advice to better understand the type of contract you are signing. A "stipulated price contract" is common, setting a fixed price for the home construction. A "cost-plus" contract, which is more common for high-end custom-built homes, involves paying the builder a percentage of the actual building costs. Be sure to understand these terms.*
- Terms such as "prime cost" or "provisional cost" may also be used, so be sure you understand them.*

Do you know how the amounts that you pay your builder will be calculated? If you are uncertain, ask your builder, an independent professional, or a real estate lawyer to explain the terms to you.

- Remember: Once you have signed a building contract you cannot normally back out if you change your mind. If you want anything changed, the time to do it is before you sign. Note, however, for the purchase of new condominium units, there is a "cooling off" period. Learn more about buying and selling a condo on the Province's Condo Act page, <https://www.gov.mb.ca/condo/buyingunit/index.html>*
- Have you checked the dates or time periods that the fixed contract time is scheduled to start and finish? Have you established your rights and those of your builder if your home isn't finished by the date stipulated in your contract? If this occurs, do you know where you will live until your home is finished? Is your financing secure or will you need to plan for changes?*
- Ensure that everything important is confirmed in writing and keep a copy of these documents.*
- Realtors are unable to provide legal advice. Ask your real estate lawyer to review closing documents before you sign the contract, and also to represent you at closing. While lawyers will charge a fee for these services, they will ensure your best interests are protected."*

With the exception of the cooling off period, noted in Tip #9, the purchase contract you sign will be the determinant of any dispute you may have. The contracts on new builds are generally written by the builder. As such they may contain paragraphs and phraseology which are to the benefit of the builder.

Before signing this very important document, have it reviewed by a Real Estate Lawyer to ensure that you know all the details and all the nuances which may be contained therein. If you don't currently have a lawyer, we can refer you to our Business and Professional Directory <https://cci-manitoba.ca/resources/mb-professional-business-partner-directory>

It is worth noting, that while realtors can't provide legal advice, there is some merit in talking to them when purchasing a new condominium, especially if the buyer is new to the condominium market. Realtors can provide perspective on pricing in the local market that could aid the buyer when making an offer. As well, they can provide insight into key issues that may arise with new condominiums. If you are looking for a realtor to assist you in the purchase of a condo, consider those that are in our Business and Professional directory, available on our website <https://cci-manitoba.ca/resources/mb-professional-business-partner-directory> and on page nn of this newsletter.

If in doubt please remember the purchaser's credo – BUYER BEWARE.

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