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Home warranty program behind the times

Alberta Plan and U.S. proposal boost buyer protection

In his Bricks & Sticks column in this section two weeks ago, Sheldon Libfeld, president of the Greater Toronto Home Builders Association (GTHBA) strongly defended the warranty protection offered to new home and condominium buyers in Ontario.

"I challenge Aaron," he wrote, "to point out any jurisdiction in North America where homebuyers are afforded better protection than that offered under the (Ontario) New Home Warranty Plan Act."

I immediately accepted the challenge and found that I didn't have to look too far to find programs which are in whole or in part far superior to the what's offered here.

In Alberta, for example, homebuyer deposits are protected to a maximum of \$60,000, triple the coverage in Ontario. Condominium deposit coverage is \$30,000 - 50 per cent more than here. Structural integrity protection can be purchased for 10 years in Alberta, but ONHWP provides a maximum of seven years in this province. Disputes with builders in Alberta can be resolved with mediation, conciliation or binding arbitration while in Ontario buyers only have the option of conciliation - a significant difference.

In the United States, new home warranty programs are offered by private insurance companies and differ widely in scope and protection, but that situation is about to come to an end with the expected approval of an industry-wide warranty by the federal government. Once in place, the program will be far ahead of the Ontario program.

In the U.S., a federal agency, the Department of Housing and Urban Development (HUD), approves new home warranty programs which builders offer on homes that receive government-insured mortgage loans. Unfortunately, the approved plans vary widely and offer different levels of protection across the nation.

In June, 2002, the 9th Housing & Home Warranty Conference took place in Banff, with speakers from around the world. One of the participants was Wallace (Em) Fluhr, C.E.O. of Home Buyers Warranty Corporation, of Aurora, Colorado.

Fluhr reported that the National Association of Home Builders (NAHB) in the U.S., representing 60,000 builders and 130,000 associate members, had created a task force last year to work on a uniform home warranty.

The task force provided NAHB and HUD with a unanimous recommendation for a common warranty for nationwide use across the United States. The key element in the proposal is that the program be backed by private insurance companies which would repair problems at no expense to home owners or builders.

The proposed American warranty plan provides coverage for all cosmetic deficiencies in the new home before the sale closes. If the builder has not taken care of the cosmetic deficiencies within 90 days following closing, the insurance-backer will repair the deficiency directly for the home owner.

The prospect of a 90-day turnaround for deficiencies in the United States seems like a breath of fresh air compared to our own warranty program, in which some buyers have what seem to them interminable waits.

Here in Ontario, my files are full of letters, faxes and e-mails from unhappy home buyers who have waited as long as a year for some satisfaction from a few builders.

The NAHB task force recommended a one year warranty on all workmanship and a two year warranty on mechanical, electrical and plumbing systems - similar to the ONHWP program. The U.S. uniform warranty will provide 10 years of coverage for structural failure, compared to ONHWP where similar protection is limited to seven years.

Dispute resolution in the Ontario and US plans also differs. Under the uniform American plan, arbitration would be available. An arbitrator's decision would be final and could be enforced in a court of law. Arbitration is not available in Ontario.

Last weekend I spoke to Em Fluhr about the report of his industry's task force on the uniform warranty. He told me he is expecting imminent government approval of the industry proposal.

When it comes, he said his company will be the first in the United States to offer it to home buyers. The company, 2-10 Home Buyers Warranty, currently serves 15,000 builders across the U.S. and writes 140,000 policies a year.

Ontario's New Home Warranty Program may have been state-of-the-art when it was introduced 26 years ago, but it is not keeping up with the times.

Tim Hudak, Ontario's new consumer minister, has announced a new mandate on consumer protection. ONHWP was set up under provincial statute to govern the home-building industry, but it remains controlled by builders. Hudak should consider opening up the new home warranty field in this province to competition from private insurance companies.