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Changes to Act won't protect buyers

Ontario's consumer minister Tim Hudak is way off base if he thinks his proposed new consumer protection legislation will provide adequate - or indeed any - protection to thousands of Ontario consumers who buy new homes every year.

The sad fact is that the proposed new amendments to the Real Estate and Business Brokers Act do not require builders of new homes and condominiums to use registered real estate agents or brokers to market their product.

The law would leave buyers of more than \$3.25 billion worth of new homes and condominiums totally unprotected from sales staff who, by law, are permitted - indeed encouraged - to be untrained, uninsured, ungoverned, undisciplined, uneducated, unlicensed, unsupervised and uninformed.

Hudak inherited this flawed bill from his predecessor Norm Sterling. Unfortunately, Hudak didn't do much to improve the real estate portions of it when he unveiled the revised version in late September.

Here are the facts, courtesy of veteran real estate broker Andrew Brethour, of PMA Brethour Real Estate Corp. Brethour's firm provides sales and marketing expertise to the building industry.

By the end of September, year-to-date sales of new homes and condominiums in the Greater Toronto Area (GTA) reached a record 44,019 units, pointing to total sales of between 52,000 and 53,000 in 2002.

Of the low-rise new homes sold, about 74 per cent are sold through real estate brokers, and 26 per cent sold directly by builders. Of the new high-rise condominiums sold, brokers sell 91 per cent and builders sell nine per cent through in-house sales staff.

Looking at the overall annual market of new homes and condos in the GTA, builders sell on average 21 per cent of the product without real estate agents or brokers. This means that homes worth a staggering \$3.3 billion out of a total \$16 billion market are sold without the involvement of real estate professionals.

Anne Scharf is the broker at Especially New Homes Inc., in Waterloo. Last year, she emailed me to say, "We have a large problem locally with ... unlicensed salespeople selling millions of dollars worth of new homes with no training, education, insurance, regulations or supervision of a broker..."

It's a problem throughout the province, not just in Waterloo. Brethour told me that the proposed new legislation "doesn't make sense." Even with significant experience, the use of unlicensed in-house sales staff employed by builders leaves consumers unprotected from misinformation or mistakes made by sales staff. At least licensed agents are insured and subject to regulation by their licensing body.

Brethour tells me that virtually all of the large builders used licensed real estate agents. Some of the smaller ones, unfortunately, do not.

In Florida's booming market, Brethour says, builders can only sell through licensed real estate brokerages. The broker's name must be posted right on the front door of the sales office.

Hudak's publicity machine trumpeted the revisions to the Real Estate and Business Brokers Act as intended "to modernize the legislation and serve the needs of consumers..." The proposed legislation, says the ministry, "is based on the important objectives of fairness and responsiveness to the needs of consumers."

I fail to see how Hudak will protect consumers if more than 11,000 of them will be able to spend more than \$3 billion annually without the protection that only licensed real estate agents can provide.

Another piece of consumer ministry propaganda released in September says that the proposed Consumer Protection Statute Law Amendment Act 2002 marks "a milestone in the development of the government's plan to help maintain Ontario's reputation for excellent consumer protection..." I think not.

Hudak may go down in Ontario history as the minister who protected consumers from smooth door-to-door renovators, but in the real estate community, his failure to implement meaningful changes to the law is destined to be forever known as "Hudak's folly."

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