

Standard offer is unveiled

By LINDA COLLINS
The Toronto Home Builders' Association unveiled its new standard offer of purchase and sale at a press conference

in downtown Toronto recently, a move 1987 THBA president Robert Hume describes as a "breakthrough in the new home industry"

The revamped document, which encompasses the best of the now more than 250 similar offers of purchase now in use in the Toronto market, says Hume, will likely hit the marketplace this spring. And the THBA is hoping its existence will dramatically improve relations between builders and new home buyers.

The standardized offer, which Hume will be pushing to make a condition of THBA membership, has been a personal crusade of his for more than a year.

"We kept hearing from buyers who just didn't understand what they had signed," he says, "and turned to THBA for arbitration."

There are a number of problem areas in existing offers of purchase, he says, which found buyers, vendors and lawyers "wading through fine print."

Clearly, says Hume, "some builders forms simply go too far."

For the first time, an offer of purchase spells out consumers' rights by way of the New Home Warranty Addendum which is incorporated into the body of the text.

The addendum became mandatory in the new home industry this spring. Its addition in the new standard offer of purchase and sale makes it a "standard contractual agreement" says lawyer Stephen Risk, who helped spearhead the project.

And the addendum is specially screened into the document so that it cannot be altered or portions of it deleted.

The new offer also sports larger typeface and language that is less legal jargon and more in terms easily understood by the consumer.

It also educates consumers to the "hidden" costs involved in buying a new home such as taxes payable upon closing, supplementary realty tax assessments, the ramifications of increased mortgage rates and of any tax accounts maintained by mortgages.

"These are not payments to the builder," says Hume, "but they can affect a buyer's cash flow at the time of closing."

And in an attempt to solve the problem of delayed closings which have plagued the new home industry as of late, the offer contains a provision for the maximum amount of time a builder can

delay closing.

Builders can now extend closing up to 120 days after the initial closing date, but only if it has been agreed upon in writing by both parties.

If a builder requires even more time to complete closing, the buyer has the option to terminate the agreement within 10 days of the 120-day extended closing date.

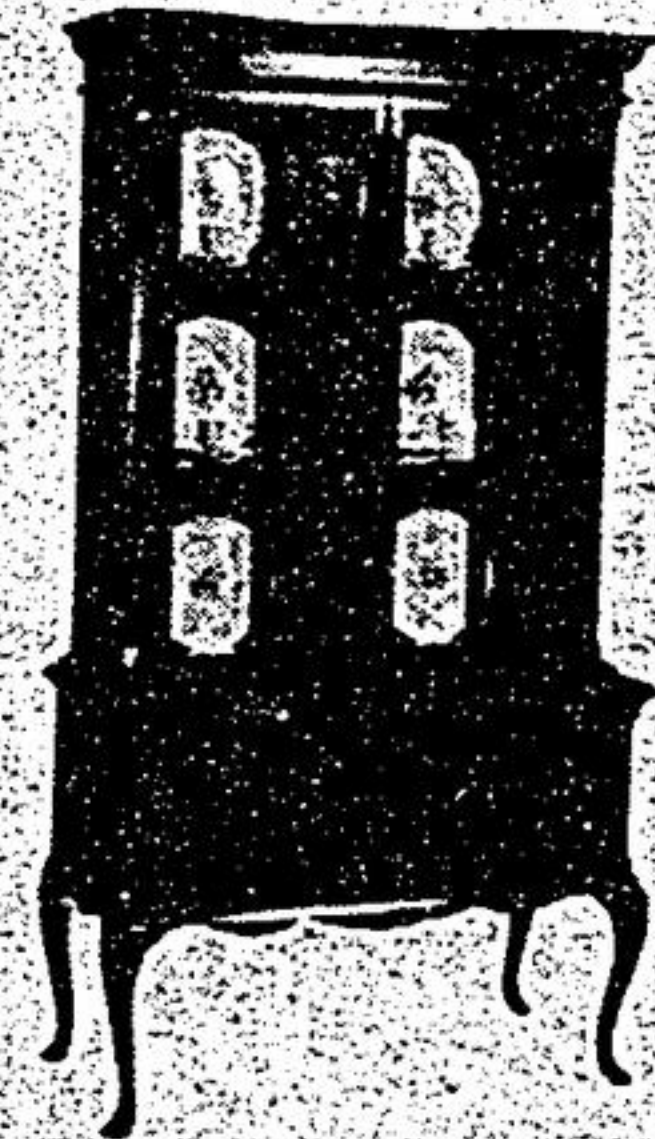
If both parties agree, the closing date can be extended for a further 120 days but can be terminated at the end of that time, unless otherwise agreed by the builder and home buyer.

The agreement contains a number of other provisions designed to protect the new home buyer, including:

- Changes to the document must be made on the face of the document, with changes being clearly identified. If builders wish to add other provisions, these must be added as schedules.
- Municipal subdivisions agreements are highlighted in bold print on the document. And buyers are instructed to find at the local municipal office plans which may affect the land surrounding their property.
- Alterations or substitutions to the property, which would reduce the value of the home or substantially alter it, cannot be done without the buyer's consent.
- Builders must advise the buyer if the builder cannot provide a selection such as a specific fixture or color choice.
- If, as a result in delays of closing, a buyer's mortgage is no longer available, a period of time is granted for the purchaser to obtain alternative financing.
- Builders agree to abide by the Ontario Building Code and to perform all work in a workmanlike manner. Builders are also liable for construction liens.
- If a municipality withholds an occupancy certificate or if there are defaults under subdivision or development agreements, the buyer is not obligated to close.
- Builders must now provide a survey to buyers.
- If a house is damaged before closing, there is no cost to the purchaser if repairs can be made within 120 days. If damage is extensive and cannot be repaired within 120 days, the agreement is terminated.

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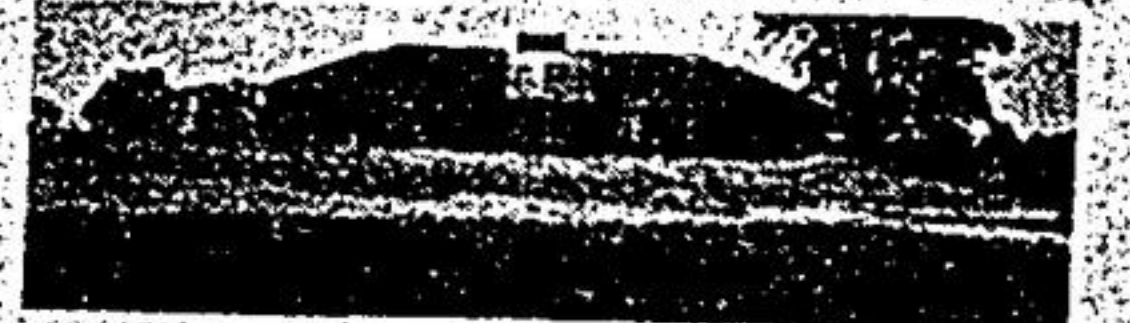
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