

Bulletin No. 28

Bulletin No. 28 applies to free hold homes

For many years ONHWP required no security for free hold construction, but since Bulletin No. 28 the Program now requires that security for free hold homes be provided as a term of registration and renewal of registration, depending on the size of the builder, his track record with ONHWP, his length of time in the construction industry, and his technical ability.

Although the provisions of Bulletin No. 28 are detailed there is little background information on how the calculations and figures set out in Bulletin No. 28 are reached, and there is no provision whereby the risk assessment made by ONHWP based on this Bulletin may be made available to the builder, before the builder is required to provide security that results from such risk assessment.

The Bulletin appears to favour large builders over small builders even though there may be no difference in the technical ability of a small builder. It has been my own experience that small builders often build better or comparable homes to larger builders, but they are treated differently by ONHWP under this Bulletin because the security requirements for smaller builders are relatively more substantial and the Bulletin's points system not as generous to the smaller builder.

It has been my observation that Bulletin No. 28, which of course is only a guideline, has now been extended to potentially cover all freehold homes depending on the risk assessment of the builder made by ONHWP. Depending on factors which are set out in the Bulletin itself, points or marks are given for financial ability, technical competence, marketing and service, and size. The mark you are assessed will indicate the amount of security that you are obliged to provide to ONHWP pursuant to the Bulletin.

One seeming abnormality is that a builder with a given mark will have to pay security in respect of low-rise condominiums but no security with respect to free hold homes; no reason is provided in the Bulletin or elsewhere for this. It is my belief that ONHWP reverts to prior claims history to determine such current security requirements. However, no data is provided to support what the prior claims history has been. Currently, in certain circumstances builders are faced with providing security for low-rise condominiums and a greater amount for high-rise condominiums and perhaps none for free hold homes. Therefore a builder with the same mark as another, but who builds condominiums may have to provide security, while a builder constructing free hold homes may have to provide none.

In addition, it is difficult to determine how the risk assessment is carried out, particularly in view of the fact that the actual risk assessment document is not typically provided to the builder prior to ONHWP determining how much security the builder must provide. Many of the factors in determining this assessment are not known to the builder, and are a compilation of data accumulated by the Risk Assessment Department and the Regional offices. The information

when collated is often difficult to understand and assessments appear to be less than comprehensive.

It has been my experience with respect to risk assessment documents that I have seen, that it is only made available when the builder is proposed to be revoked or refused registration. In every instance where I have looked at an actual risk assessment, such assessment itself was difficult to understand and was rarely corroborated with complete documentary information. On the basis of making an assessment, a builder may be obliged to place no security, or up to \$10,000.00 worth of security per individual freehold home, resulting in hundreds of thousands of dollars of security being required from a very quick assessment, utilizing criteria from the Bulletin which criteria itself are unexplained.

It would be my suggestion to builders that before they provide security to ONHWP pursuant to Bulletin No. 28, they ask for and receive the actual risk assessment document and any back up documentation that influenced such risk assessment, so that builders themselves can ascertain how the assessment was reached, and be given an opportunity to agree or disagree with its content. In this way there would be disclosure by ONHWP as to why certain security requirements are being requested, and it would provide the builder with an opportunity to challenge those assessments made by ONHWP, if the builder disagreed, or ONHWP's information or analysis appeared to be incorrect.

While it is true that the security, if nothing goes wrong, is eventually refundable to a builder, most builders are constantly building new projects. Therefore, as soon as the security for one project is refundable, the builder has to replace it with security for the next project. There may be no point in time therefore when the builder is security free.

Conclusion

That being the case, in my view the future of the security required by either Bulletin No. 19 or 28 should be reviewed, because Bulletin requirements regarding security are costly, and few builders can afford to place with ONHWP large amounts of security, while continuing to build homes and earn a modest profit.

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