

PUBLICATION

New Home Buyer Protection Act

Michael C. Kwiatkowski

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It has been more than two years since the New Home Buyer Protection Act (the “NHBPA”) came into force and it has shown to have greatly benefitted new homebuyers throughout Alberta. The NHBPA applies to all new homes with building permits submitted from February 1, 2014 onward, when the Act came into effect.

The NHBPA affords homeowners with expanded warranty coverage for their homes, using the “1, 2, 5, 10” year coverage term which includes:

- One year for labour & materials (the “bumper to bumper” warranty);
- Two years for distribution systems (defects related to heating, electrical and plumbing, etc.);
- Five years for building envelope (wall framing, cladding, roof, window installation, etc.); and
- Ten years for structural integrity (frame, foundation, etc.).

Homeowners can also receive reimbursement for such things as having to live elsewhere while the house is uninhabitable as a result of a defect or while warranty work is underway.

Homeowners should be aware, however, that there are monetary limits to warranty coverage that apply to the 1, 2, 5, 10 year coverage terms but often times, additional warranty products are available that go beyond those coverage terms. We strongly recommend the homeowner purchase the optional insurance when available.

In order to trigger warranty coverage in the event of a discovered defect, there are a number of critical steps a homeowner must take with its warranty provider (and there are several warranty providers in Alberta). The timing of each step may differ with each warranty provider, and coverage may be denied if the homeowner misses a step or a filing deadline. Most of these timelines are hard deadlines which cannot be extended.

If warranty coverage is denied the homeowner can challenge the warranty provider and take their dispute to arbitration. In arbitration, an arbitrator is appointed and both parties attend to come to a decision on the dispute. This can be a complicated and lengthy process, and it is not unlike a trial where witnesses will need to be called and experts, qualified. The arbitrator’s decision is final and binding on the homeowner, the builder, and in some cases, the warranty provider.

While the NHBPA is of great assistance to the new homebuyer, the warranty programs have various traps and mazes that a homeowner can easily fall into or get lost. If you are ever in a situation where you need to consider advancing a warranty claim for your new home, please contact the author, Michael Kwiatkowski at 403.873.3706 or any member of our Litigation & Dispute Resolution Group.