

ASK THE INSPECTOR

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I am planning on buying a new home, but I want to make sure that my investment is protected if I have problems in the future. What kind of protection do I have when buying a new home?



Recently, new home builders have been receiving some bad press, and some with good reason. Normally, bad experiences are reported more widely than good experiences and for that reason, all builders are given the same bad name. Whether the negative perception is accurate or not, it is the responsibility of the home buyer to research local builders to find one who will suit their needs. The builder should provide the prospective purchaser with a list of references from people whose homes they have built. The purchaser should then visit the homes to see the quality of construction on homes that are not model/show

homes, which usually contain all of the bells and whistles since they are the builder's main selling tool.

Similar to any real estate transaction, the builder will require the purchaser to sign an Agreement of Purchase and Sale (APS) prior to building the home. This document sets out the terms and conditions for building the home, including the construction details, the price, the lot on which the house will be built, the closing date, the repercussions if the house is not built on schedule or if the purchaser has to back out of the deal, etc. Most of the time the APS is slanted in the builder's favour and it is therefore very important to have a lawyer review the APS prior to signing. The purchaser should arrange dates or benchmarks (specific stages in the building process) with the builder to visit the home to make sure things are proceeding as planned. Showing up on-site unannounced or visiting the site after hours may cause friction with the builder and/or sub contractors and may be considered trespassing since the builder is typically the owner of the house and property

during construction of the home.

Once the home is built, there is an opportunity for the purchaser to walk through the home with a builder's representative to learn about the house and, more importantly, identify defects and deficiencies for the builder to repair. The Pre Delivery Inspection (PDI) is the purchaser's opportunity to make sure that all systems in the home are in good working order using the materials agreed upon in the APS. Plumbing and electrical systems should be tested, the heating system and air conditioner (if possible) should be run, all doors and windows should be opened and closed, and ceilings and walls should be closely examined for cosmetic defects or moisture staining. During the PDI, it is important to document all defects, big or small, on the proper PDI form. Sometimes the builder's representative will try to discourage the purchaser from documenting defects, instead assuring them that the problems will be corrected. Beware of this practice as verbal agreements are very difficult to verify if the issue is not resolved by the builder.



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The best way for new home purchasers to protect themselves is to purchase a new home warranty. A New Home Warranty is mandatory in Ontario, British Columbia, and Quebec, however warranties are available for consumers to purchase in all provinces.

What does the New Home Warranty cover and how does the claims process work?

A New Home Warranty normally covers the amount of the deposit placed on the home in the event of a default by the builder, delayed closings/occupancy, offers an annually decreasing amount of coverage on everything from cosmetic defects for one to ten years from the time the home is occupied and the Certificate of Completion. Other typical coverage details include:

- **Year 1:** All materials and workmanship are covered, including water penetration, all major systems (i.e. roof, plumbing, electrical, and heating systems), and major structural defects.
- **Year 2:** Major structural defects. Some warranties also cover water penetration (through windows, foundation, roof, siding, etc), exterior siding damage, and/or defects associated with the home's major systems until this point.
- **Year 5:** Major structural defects. Some warranties also cover water penetration through the foundation.
- **Years 5-10:** Major structural defects. Not all homes are covered for 10 years. Some warranties only cover the home for 5 years, while others cover the home for 7 years. The purchase of an extended warranty is usually required to extend the warranty term to 10 years.

Things that are not covered under most warranties include damage caused by the homeowner or movers, work performed by the homeowner, or damage caused because of negligible maintenance by the homeowner (i.e. water leakage caused by poor grading), secondary damaged caused by a warranted defect, etc.

Prior to the one year anniversary of moving into the home, a list of deficiencies should be submitted to the builder in writing. It is very important to give the builder the opportunity to correct any problems, prior to contacting the warranty company. Most builders are responsive and will respond by having the deficiencies repaired or addressed. However, if the builder is not responsive or refuses to address the issues, most warranties have various built-in methods of dispute resolution.

- **Mediation** – An independent, third party sits down with the builder and the home owner to try and reach an agreement to settle the issue(s).
- **Conciliation** – An investigation of the disputed item is performed by a qualified warranty inspector. The inspector reports his or her findings to the builder and the homeowner detailing the findings of the investigation and the required actions and timeline.

Each of the warranty programs available throughout Canada has their own specific terms and conditions. The rights and responsibilities of the homeowner for each warranty are usually documented in an easy to understand homeowner information package. New home buyers should contact their local home builders association to obtain specific information related to local new home warranty coverage. As well, most new home warranty programs also have good web sites for which the specific details of coverage can be obtained.

When should I have my new home inspected?

A home inspection should be performed within the first 11 months of living in the home in order to present the inspection findings to the builder within the first year of warranty. Living in the house for a few months before having the inspection allows the homeowner to find small problems that may not be found during their initial inspection (i.e. a squeak at a particular spot in the floor or the basement leak that only occurs during heavy rain falls). As well, some problems may not manifest themselves prior to living in the home for a period of time. Both the inspector and the homeowner findings should be documented in the inspection report.

An inspection is also an opportunity for the homeowner to learn about how the systems in the home work and what type of maintenance is required. A home inspection should be performed within the first 11 months of living in the home in order to present the inspection findings to the builder within the first year of warranty. Living in the house for a few months before having the inspection allows the homeowner to find small problems that may not be found during their initial inspection (i.e. a squeak at a particular spot in the floor or the basement leak that only occurs during heavy rain falls). As well, some problems may not manifest themselves prior to living in the home for a period of time. Both the inspector and the homeowner findings should be documented in the inspection report.

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