

## **COMMITTEE OF THE WHOLE SEPTEMBER 15, 2003**

### **ONTARIO NEW HOME WARRANTIES PLAN ACT 240 DAY TERMINATION PROVISION**

#### **Recommendation**

Councillor Mario Ferri recommends that the Council of the City of Vaughan adopt the draft resolution attached hereto thereby requesting the Province of Ontario through the Ministry of Consumer and Business Services to review the 240 day termination provision contained in the Ontario New Home Warranties Plan Act.

#### **Purpose**

To obtain Council support for a resolution requesting a review and amendment to the Ontario New Home Warranties Plan Act, and specifically the 240 day termination provision, thereby preventing Vendor/Builders from unilaterally terminating agreements of purchase and sale after 240 days in circumstances where it would be patently unfair to do so.

#### **Background - Analysis and Options**

Recently in Maple, termination notices were sent out to nine residential new home purchasers by Grand Valley Homes, thereby terminating their agreements of purchase and sale. This was permitted pursuant to the provisions of the Ontario New Home Warranties Plan Act, and regulations thereto, as 240 days had passed from their initial closing dates. A Builder is currently permitted to cancel agreements of purchase and sale where 240 days has passed beyond the original closing date, and the builder has taken all reasonable steps to construct the dwelling without delay.

Grand Valley Homes initially refused to extend the closing dates for the above-noted agreements of purchase and sale beyond the original 240 days notwithstanding that the Purchasers wished to extend their deals further, and in many cases the homes were near completion.

Following much discussion and negotiation with representatives of the Ontario New Home Warranties Plan, the Province of Ontario, and the City of Vaughan, Grand Valley Homes eventually relented and reinstated the agreements of purchase and sale. While in this case, the purchaser's agreements were eventually reinstated by the Builder, the 240 day termination provision has not yet been amended, and could be used by Builders in future to terminate transactions where, in certain circumstances, it may be patently unfair to do so.

The Ontario New Home Warranties Plan Act, and regulations thereto are provincial pieces of legislation. As this issue is within the exclusive jurisdiction of the Province of Ontario, it is incumbent upon the Province to review and amend their legislation.

#### **Conclusion**

A review of the Ontario New Home Warranties Plan Act, and the Regulations thereto, and in particular the 240 day termination provision, is in order. The attached resolution, if adopted by Council, would request that the Province of Ontario, and the Ministry of Consumer and Business Services, review the appropriate legislation with a view to preventing the termination of residential agreements of purchase and sale, where it would be patently unfair to do so.

#### **Attachments**

Draft Resolution to be adopted by Council

Respectfully submitted,

Councillor Mario Ferri  
Ward 1

WHEREAS the *Ontario New Home Warranties Plan Act*, and regulations thereto govern the maximum number of days that a residential new home closing may be extended;

AND WHEREAS a Vendor/Builder may terminate an agreement of purchase and sale in respect of a new home where 240 days has passed beyond the original closing date;

AND WHEREAS there may be circumstances where it is unreasonable to allow a Vendor/Builder to terminate a residential new home agreement of purchase and sale where a home is under construction or near completion;

BE IT RESOLVED THAT the Council of the City of Vaughan respectfully requests the Province of Ontario through the Ministry of Consumer and Business Services to review the provisions of the *Ontario New Home Warranties Plan Act*, and Regulations thereto, with a view to preventing Vendors/Builders from terminating agreements of purchase and sale where a new home is under construction or close to completion, where a Purchaser does not wish to terminate said agreement;

AND BE IT FURTHER RESOLVED THAT the Council of the City of Vaughan directs the Clerk to copy this resolution to all Ontario municipalities, requesting their support of this review;

AND BE IT FURTHER RESOLVED THAT the Council of the City of Vaughan respectfully requests the support of the Association of Municipalities of Ontario (AMO) in this initiative.