

# New Homeowner Protection

FINAL REPORT



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***26 September 2008***

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## Executive Summary

In recent years there have been a number of complaints regarding serious problems encountered by owners of new condominium units, some of which have received much publicity. At the same time many Canadian Provinces have moved to increase the protections offered to owners of new homes of all types, and there have been several proposals from industry groups and others that have suggested improvements that might remedy specific problems or lead to a general increase in quality standards for new homes. On the whole it appears that new home owners of single family dwellings report fewer problems than condominium purchasers.

This study investigated the protections that are currently in place for owners of new homes in Nova Scotia, endeavoured to highlight deficiencies in those protections, and made recommendations for improvement and how those improvements might be implemented. In the process many stakeholder groups were consulted, both new homeowners and broadly within the home building sector, in Nova Scotia and across Canada.

Our findings showed that in general the protective measures that are in place to ensure that a quality product is built and purchased by new homeowners are satisfactory for single family dwellings. The industry recognizes that there is room for continuous improvement, and should continue with steps being taken to enhance and rationalize trade skills, introduce improvements in building methods and materials as these become available, and strengthen warranty provisions and sales agreements.

It is in the condominium sector that the more serious problems arise. Fortunately these have been restricted to a relatively small number of buildings. However, the envelope failures and water penetration that has resulted in these problem buildings have had serious consequences in terms of the cost of remediation and impact to the homeowner. It is in this area that the report focuses it's major recommendations, with the object of implementing preventive and corrective measures that are practical and manageable, yet will restore buyer confidence and owner satisfaction.

The recent experience of deficient buildings in some sectors is by no means unique to Nova Scotia. Several other Provinces have encountered similar challenges and have implemented programs and legislative changes to strengthen the controls on building quality where needed, and to ensure that remedies to the homeowner are available when problems do occur, typically in the form of warranty provisions. The report's recommendations draw from this experience gained elsewhere, to increase the likelihood that the proposals for improvement can be implemented with successful outcomes.

The report makes eight major recommendations:

**Recommendation #1:** For the long term, the Province should, as a separate initiative, continue to evaluate improvements to licensing of trades, and bring them into alignment with the certification standards being issued by the various training programs that the industry uses.

**Recommendation #2:** There should be a requirement for registration of builders and/or developers, and registration of their residential development projects particularly where these involve large non-Part 9 buildings. This must

be coordinated with the municipal issuers of building and occupancy permits such that the latter cannot be issued if the registration is in default.

**Recommendation #3:** Generally, protections for purchasers of single family dwellings and townhouses are adequate, and it should be left to the industry and marketplace to implement incremental improvements.

**Recommendation #4:** The Provincial Building Code Authority and the Architectural and Engineering governing bodies should review the obligations under Letters of Undertaking and consider how they can be improved and/or strengthened. Professional governing bodies should also be required to report compliance failures to the relevant Provincial and Municipal authorities.

**Recommendation #5:** There should be a mandatory inspection of the building envelope by a suitably qualified specialist (professional engineer or other designation as appropriate) working at arms length from the developer, to include assessment of the adequacy of protection from water penetration. This should take place during the early critical phases of the construction process and could be managed through a separate Letter of Undertaking. Enforcement should be through an improved municipal inspection regime under the municipal permit issuance process.

**Recommendation #6:** There should be mandatory warranty, at least for all Condominium Buildings. This warranty should include water penetration protection for a period of at least 5 years. Warranty should be provided by companies at arms length from the building industry, and by companies with sound financial reserves, risk management experience, and adjudication procedures.

**Recommendation #7:** Regulations should require that deposits for new home purchases of any type should be secured, through deposits in trust or other equivalent means, to protect the purchaser from failure to complete the development.

**Recommendation #8:** There should be a coordinated program of material available to inform the new homeowner of protections available. This should be straightforward, informative and widely disseminated. It should be separated from marketing and sales promotion materials. It should include a checklist to be a component of the final sales process.

In a final section of the report we have suggested how these recommendations could be implemented, as well as some proposed priorities. The report recognizes that coordination of activities is required between several government authorities, as well as participation by industry, trade and professional organizations. However, it will be through this concerted effort that Nova Scotia's new homebuyers can be assured of the quality standards that they expect in what is, for most of them, their most significant lifetime investment.

# 1 Introduction

## 1.1 Background

Among Service Nova Scotia and Municipal Relations' responsibilities is to provide services directly to consumers to assist them in their dealings with the business sector. These services include consumer awareness programs and regulations to enhance protection for consumers making certain transactions. These services help to provide the consumer with a belief in a fair and balanced economic system and the confidence to make purchases, thus promoting both economic development as well as consumer protection.

On November 22, 2007, Service Nova Scotia and Municipal Relations Minister Jamie Muir announced an investigation by the Government of Nova Scotia into homeowner and industry concerns over new residential construction, including condominiums. A steering committee of provincial and municipal employees managed the initiative. The committee retained a consulting firm to conduct a major portion of the initiative including identification and analysis of concerns and research into best practices, and recommendation of appropriate measures to address issues raised. A commitment was made to include broad consultations to help identify the issues and assist in identifying possible solutions which balance the interests of all parties.

Based on complaints from home and condominium unit owners, the Government of Nova Scotia identified several key concerns which required investigation and resolution. These concerns included poor workmanship, water penetration, construction deficiencies and the perceived lack of recourse for home-buyers. As well, participants in the residential construction industry expressed interest in finding ways to improve the overall quality of their output through more rigorous requirements on builders and contractors, such as certifications, licensing and the creation of a self-regulatory commission for the industry.

The Government of Nova Scotia sought to investigate the concerns raised by consumers and industry participants and to identify possible solutions that could lead to the introduction of new measures for the new home and condominium unit construction industry. Because of the anticipated size and scope of this investigative review, the government asked the independent consultant to conduct the background research, consult with stakeholders and prepare a review of alternatives and recommendations for consideration by the Department.

## 1.2 Scope of the Study

The scope of the investigation included a study of:

- What problems exist in new home construction
- The factors contributing to those problems
- The adequacy of protection to Nova Scotia consumers
- Identification of possible solutions
- The factors for and against new measures
- Recommended improvements

This study was limited to the ownership experience with new homes and residential construction only. The types of building and construction methods that are the subject of this investigation are described in further detail in Appendix A2 to this report. Although similar types of building using similar construction methods may be developed as rental apartments or non-residential structures, these are beyond the scope of this report.

### **1.3 Report Overview**

This report is the outcome of the study of the current situation with new home building in Nova Scotia, the experience of other jurisdictions across Canada, input from professionals and those involved in home construction or in advising new home purchasers, and surveys of homebuyers and the public.

The background materials to this report are contained in the Appendices. This includes information from the discussion paper that was prepared during the assessment phase of the study and that received broad circulation. Sections 2 and 3 of the report concentrate on the recommendations and suggested approaches for implementation.

### **1.4 Primary Issues**

Any new home purchase is a major expenditure, one of the most important that most families make. Home construction is complex, and therefore it is to be expected that there have been a wide range of experiences for new home buyers in Nova Scotia, from excellent and highly satisfied to those who have encountered serious problems without satisfactory resolution. Our findings from the surveys and interviews that we conducted are described in greater detail in the Appendices to this report, and these findings confirm this wide range of experience.

It was clear during our study and from the findings that the major current issue causing the highest degree of dissatisfaction is related to deficiencies in some condominium buildings of certain sizes and types. Again, these are described in more detail in the attachments. Fortunately, these deficiencies appear to be restricted to a relatively small number of buildings; nevertheless, they are very serious and have been a major concern to the owners of these properties. In some cases the costs to remedy the situation have been very significant.

Our recommendations, therefore, focus mainly on proposals within this construction sector, and preventive measures to avoid recurrence of the type of problems that have been encountered in the recent past. At the same time, there are a number of other protections for new homeowners that have been identified as being in need of improvement; these are included as well. The objective has been to make recommendations that are realistic within the complexities and constraints of current construction methods and quality control processes, and balanced between the needs of purchasers, industry interests and capacity, and the appropriate level of Government oversight.

## 2 Recommendations for New Homeowner Protection

### 2.1 Prevention and Redress

Consumer protection for new home purchases is based on two main concepts:

- *Prevention* of problems as far as this is possible; and
- *Redress* to correct problems when they do occur.

*Prevention* means the system of regulations, methods, standards and oversight intended to provide assurance that the home that is purchased is completed as specified and as free from defects as current best practices in the construction industry are able to achieve. Construction is not an exact science; building materials and methods are by no means perfect; some defects are always likely to occur. An important purpose of prevention is to contain these to a reasonable minimum and to ensure that the purchaser is not exposed to major failure of important building systems. Some elements of such prevention programs include:

- Construction standards and their application, such as the Building Code
- Building product certification and standards
- Prescribed installation techniques provided by product suppliers
- Visible records of the builders' or developers' historic performance
- Trades licensing and training requirements
- Registration and/or licensing of developers and/or builders
- Supervision and oversight of the building process
- Inspections of work underway for compliance with designs and Building Code

A second aspect of prevention is ensuring that purchaser's deposits are guarded from misuse, and returned in the event that construction is not complete. One further prevention measure is assurance to the purchaser that what is actually built is in fact what was proposed and understood to be part of the sale agreement.

*Redress* is the set of options and channels available to the purchaser when something does go wrong. Defects can vary from the minor, often around interior fit and finish, to the major, up to significant structural failure. Defects can be apparent at occupancy, or they can remain latent for several years. Latent defects have sometimes included "envelope failure" - failure of the external structural components that protect the integrity of the building from ingress of rain and groundwater. Elements to be considered as part of options for redress include:

- Builder's warranty, normally valid for one year
- Buyer holdbacks at closing of the purchase transaction
- Third party warranties
- Arbitration procedures
- Bonding and funds held in trust
- Legal remedies

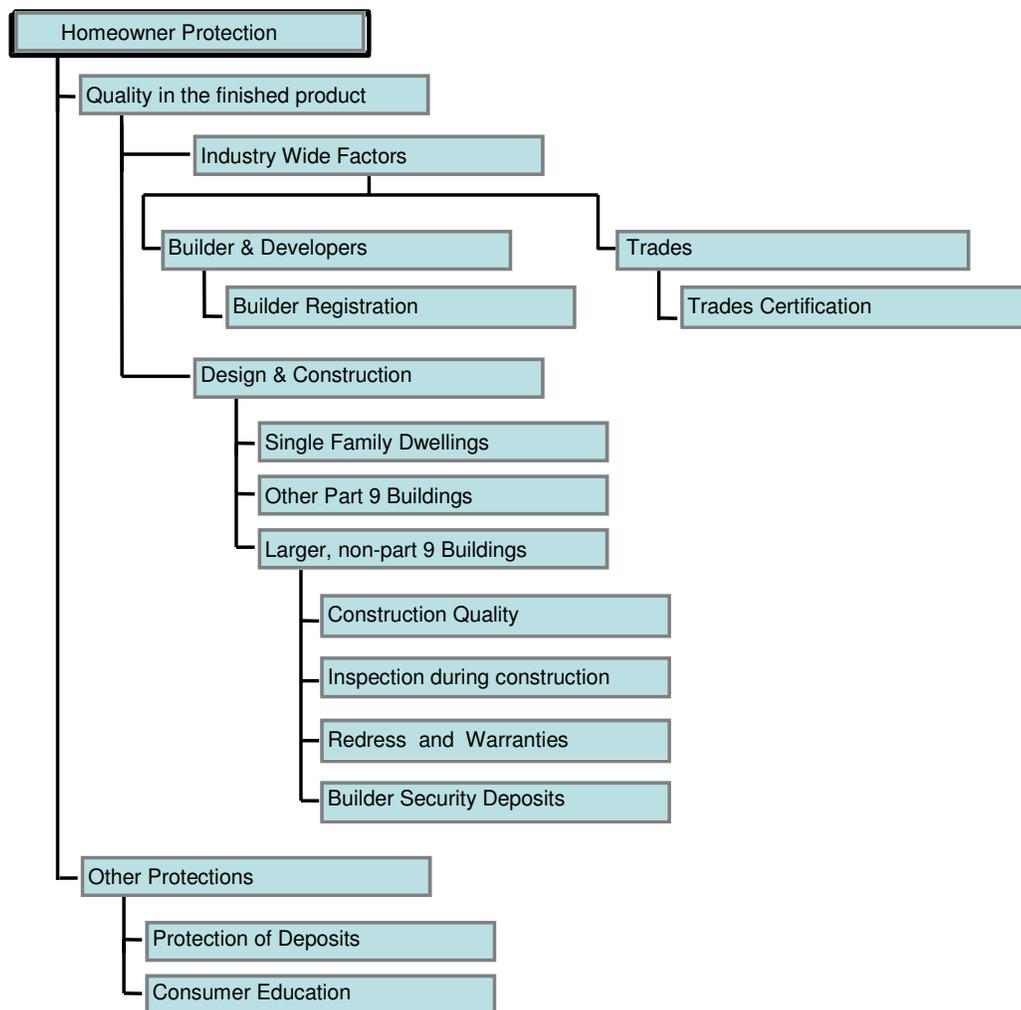
Another sometimes neglected element of redress is builders' and/or developers' demonstrated goodwill and market commitment. Builders/developers with a reputation to maintain will frequently help to remedy latent defects to an extent that is above and

beyond their contractual obligations. Unfortunately this cannot be relied upon in all cases but it does suggest that buyer prudence and diligence in selecting a builder or developer will often be rewarded with a more satisfactory ownership experience.

*Prevention* and *Redress* each have an important contribution to make to any effective protection program; they also have strong interactions and interdependencies which are significant. Improved homeowner protection should combine both. For example, builders who know that they are liable for the consequences of defective workmanship and for the costs of redress to correct it are more likely to pay attention to construction quality, thus preventing problems from arising in the first place. As another example, astute warranty companies are likely to protect their risk by careful verification of builders' capabilities and histories and by performing their own inspections to identify defects, thus improving quality through prevention and protecting themselves from the likelihood of claims for redress.

## 2.2 The Elements of Protection

This illustration below summarizes the key elements of homeowner protection considered during this study, which include measures of both prevention and redress.



In the sections that follow, for each element of the illustration above we have described:

- The major issues underlying the element or problem area
- A recommendation for how they can be addressed
- The rationale for the particular recommendation
- The possible ramifications or consequences of the recommendation

When we consider improvements needed to protect purchasers of new homes and condominiums, most of the recommendations for improvement relate to improving construction quality in the finished product. However, there are some important considerations that do not directly relate to construction quality yet still are significant in protecting the new homeowner. These will be discussed last.

## **2.3 Improving Construction Quality**

Nova Scotians who are purchasers of new homes and stakeholders involved in the development, design, construction, sale, or regulation of new home construction and purchase, advised us that most of the problems encountered related to quality of construction and changes that were needed in either:

- *Industry-wide Factors*: changes that affect the developers, builders and construction trades that are doing the work; and
- *Design and Construction*, that is, the types of buildings, how they are designed, constructed, inspected, completed and purchased

The suggested recommendations for improvements in construction quality are grouped under these two general areas together with more specific descriptions of the underlying issues.

### **2.3.1 Industry-wide Factors**

Industry wide factors include all of those that affect the people involved in the building trades and business, and how the industry is regulated.

Proposed changes to improve the Construction Industry include registration and licensing of *Construction Trades*, and registration and licensing of *Builders and Developers*.

#### **Industry-wide Factors: Licensing of Construction Trades**

There have been comprehensive proposals submitted to Government for the licensing of *Construction Trades*. Although many trades e.g. electricians, plumbers, do currently require licensing, others, including carpenters, do not. This follows the pattern of other Canadian Provinces. The licensing requirements for construction trades in Nova Scotia are summarized in Appendix A6. British Columbia is an example of a Province currently investigating the need for improved trades licensing.

While there is almost certainly merit in improving the quality and licensing of trades, there is little evidence that this will bring a significant improvement in quality in the major areas where problems are currently being encountered. It is also a complex change with a need to align the responsibilities between the training, certification and licensing

authorities, and clarify the certification requirements of specialist sub-trades within a trade.

**Recommendation #1:** For the long term, the Province should, as a separate initiative, continue to evaluate improvements to licensing of trades, and bring them into alignment with the certification standards being issued by the various training programs that the industry uses.

**Rationale:** There may well be valuable long term benefits of such changes, which should be made and coordinated with care. However, these are unlikely to yield a significant immediate improvement to homeowner protection and should be seen as an incremental increase in standards over time.

**Ramifications:** This long term initiative will require that the licensing and regulatory authorities, public-sector and private-sector education programs, trade associations, and trade unions, work together to identify improvements needed in certification and standards.

### Industry-wide Factors: Registration of Builders and Developers

With respect to *Builders and Developers*, many jurisdictions have implemented a requirement for registration. Registration can apply to the builder or developer or both, and to individual residential development projects. The purpose of registration is to allow for enforcement and better control, if necessary through withdrawal or de-listing of a registered development as part of a quality compliance program. In some jurisdictions a performance bond is required at the time of registration.

Registration is of greater significance for builders and developers involved in large, non-Part 9 condominium developments, but could be applicable to all types of residential construction. Registration does not imply an assessment of the builder's or developer's capability, but it could allow for a record of historical performance and complaint patterns to be made available to prospective purchasers through information access to such a registration system. Access to this type of information is perceived as important to many new homebuyers.

**Recommendation #2:** There should be a requirement for registration of builders and/or developers, and registration of their residential development projects particularly where these involve large non-Part 9 buildings. This must be coordinated with the municipal issuers of building and occupancy permits such that the latter cannot be issued if the registration is in default.

**Rationale:** Any quality improvement program that is to have "teeth" must have a vehicle to include registration, eligibility criteria and de-listing criteria, otherwise enforcement will be problematic. The primary purpose that is currently envisaged for registration is to support mandatory warranty (see Recommendation #6). Most other Provinces that have implemented improved new home ownership protection have included some form of registration as part of the enforcement process.

**Ramifications:** A new registry will have to be established, under regulations that are either in addition to or an amendment of current consumer protection legislation. There will be costs associated with such a registration process, regardless of where it is performed. These costs should be covered by a registration fee. The registry operations and regulations must be aligned with

municipal building permit and occupancy permit issuance, such that current registration is required to allow such permits to be issued. Requirements for a performance bond from builders/developers may be significant to warranty providers in reducing their risk (and therefore cost); this will have to be evaluated.

### **2.3.2 Design and Construction**

Design and Construction factors are those that relate to how buildings are designed and constructed, how the construction process is regulated, and how defects are detected and remedied.

In the home-building industry there are three major forms of new home construction: *Single Family Dwellings*; Other (Part 9) homes such as *Townhouses and similar homes*; and Large (non-Part 9) residential buildings such as *Condominiums* over 3 stories. Further details of these definitions and the construction methods and standards that apply may be found in Appendix A2.

#### **Design and Construction: Single Family Dwellings**

Our research and findings from homeowner organizations, industry and trade groups and homeowners themselves suggest that regulations regarding *Single Family Dwellings and Townhouses* do not show a dramatic need for improvements, outside of the changes in protection of deposits and homeowner education referred to in later sections.

We received little response and found limited evidence to suggest that the current regulations, Provincial and Municipal programs, and industry practices are anything other than, for the most part, effective. Although there are inevitably a small number of complaints made and defects recorded, these appear to be in line with industry averages and standards. The industry can and should continue to aim for higher quality standards wherever possible. It should be noted that Recommendation #6 below, for Mandatory Warranty, although primarily directed to non-Part 9 Condominium buildings, could be extended to single family dwellings benefiting prospective owners of this type of home.

**Recommendation #3:** Generally, protections for purchasers of single family dwellings and townhouses are adequate, and it should be left to the industry and marketplace to implement incremental improvements.

**Rationale:** Single family dwellings form a large proportion of new home construction in Nova Scotia. Fundamental improvements are not foreseen or needed in this sector. However, the value of stronger warranty provisions for Condominiums, which are discussed in the section below should be noted; there may be sound reasons for applying these changes to single family dwellings also.

**Ramifications:** This finding does not imply complacency; only that the industry should continue to regulate itself, adhere to current regulatory requirements, and maintain standards in accordance with best industry practice. The observations regarding warranty consideration in Recommendation #6 will have important implications if applied universally, as they would now apply to many more homes and builders.

#### **Design and Construction: non-Part 9 (Condominium) Buildings**

It is in the area of large, non-Part 9 residential buildings, typically condominiums, that the most serious problems occur. The reasons for this are elaborated in Appendix A2 of this report; such buildings are more complex in design and materials, and failures can be complex and costly to correct. By far the most common and most serious reported problem is envelope failure leading to water penetration. Focus on improvements in this area will likely yield the most significant improvement in protection to new owners.

To address these improvements there are opportunities both in the areas of prevention and in the areas of redress. In endeavouring to prevent this type of problem from occurring, there are improvements that can be made in *construction quality*, and improvements that can be made in the *inspection process* to help ensure that problems during construction are detected and corrected at source.

### **Non-Part 9 (Condominium) Buildings: Construction Quality**

*Construction Quality* is to some extent the responsibility of architects and engineers. The Building Code Regulations place responsibility on the architects and engineers to ensure that the design of non-Part 9 buildings meets the Code and also to conduct “field reviews of construction” at stages appropriate to the nature and complexity of the building. The owner/developer and the design professionals are required to provide “Letters of Undertaking” in a prescribed form to the municipal building authority. The Letters create an obligation to the municipality to ensure that the design is adequate in the first place and is then implemented properly.

However, the design professionals are not on the site daily and do not see everything that is going on even when they are there. Typically the architect or engineer would be on site once a week or once every other week to ascertain whether the work that is readily visible generally complies with the intent of the design, to assess progress and deal with issues that have arisen. It would be very unusual for them to be either hired or paid sufficiently to monitor construction quality on a continuous basis.

A concern has been expressed by many, including by representatives of the professions, that in some cases the obligation to inspect as described in the ‘letters of undertaking’ has either not been met or, even if it has, the work which caused a later problem occurred at a time the design professional was not on the site. It has been suggested that the language of the letters of undertaken be strengthened to require more rigorous and perhaps more frequent inspections.

**Recommendation #4:** The Provincial Building Code Authority and the Architectural and Engineering governing bodies should review the obligations under Letters of Undertaking and consider how they can be improved and/or strengthened. Professional governing bodies should also be required to report compliance failures to the relevant Provincial and Municipal authorities.

**Rationale:** The importance of the professional’s role is well defined in building regulations for large, non-Part 9 buildings. The professions’ monitoring and strengthening of these undertakings is a necessary part of improvement in protection to new homeowners.

**Ramifications:** This review requires the cooperation of the Professional Associations as well as the Building Code Authority in what is expected to be a relatively lengthy process. A thorough review in the light of more recent

experience is timely and could contribute significantly to the quality of future construction and clarification of the relationships between and responsibilities of the parties involved.

### **Non-Part 9 (Condominium) Buildings: Inspections**

*Inspection* during the construction process is a critical element of quality control. In the case of non-Part 9 buildings these inspections (other than for safety related matters) are a matter of shared responsibility between the Municipal Building Inspectors and the professional designers: the architects and engineers. The Building Code stipulates that the owner of the building [or its agent] shall notify the municipality at intervals deemed necessary by the municipality based on the complexity of the building and where the owner intends to cover work ordered to be inspected by the municipality. Current requirements do not specify that the professional architects and engineers must be at arms length from the Developer, other than meeting the obligation of Letters of Undertaking. Nor is there a specific requirement for inspections for risk of water penetration, the most important aspect of envelope failure in Nova Scotia's climatic conditions.

**Recommendation #5:** There should be a mandatory inspection of the building envelope by a suitably qualified specialist (professional engineer or other designation as appropriate) working at arms length from the developer, to include assessment of the adequacy of protection from water penetration. This should take place during the early critical phases of the construction process and could be managed through a separate Letter of Undertaking. Enforcement should be through an improved municipal inspection regime under the municipal permit issuance process.

**Rationale:** The Building Code already requires inspections where mandated by the municipality. Amendments to the Building Code could clarify the expectation for inspections to address this issue. Prevention is widely recognized as the preferred measure to avoid the subsequent, often very serious, consequences of envelope failure. It is noted that in other Provinces where water penetration is a major concern, such inspections have gone a long way to improve building quality. The cost is not expected to be excessively high, and many good quality builders already engage independent professionals to undertake such inspections as a matter of course.

**Ramifications:** The industry, and in particular most likely the Engineering Profession, will have to investigate its ability to deliver these services, and ensure that professionals of adequate qualifications are available to perform them. Development contracts must allow for such inspections.

### **Condominium Buildings: Redress and Warranty**

The other measures of improvement in homeowner protection to purchasers of all types of Condominium buildings are in the areas of redress. These are particularly important to condominium owners because of the complexity of the buildings, systems and ownership that have been described previously. Where problems do occur there should be reasonable and effective mechanisms to enable homeowners to take corrective action without excessive financial exposure. The standard mechanism for this is a third

party *Warranty* on the building. The intention is to have an independently managed reserve, or funding source, should costly repairs be needed. This warranty should cover latent defects including those that lead to water penetration. The warranty must be provided by an organization with the depth of resources to ensure that it will be able to correct major problems should they occur, and with the stability and durability to ensure that this assistance will be available when needed, which may be several years after construction is completed.

Third party *Warranty* applies to the building for a period of time, typically 5 to 10 years, including an initial first year where the builder is under primary obligation. In Nova Scotia such warranties are available, and widely used for some types of new home ownership. However, they are not universally available, and some offer limited coverage. Few offer water penetration protection, although this is available in other Provinces where water penetration is an issue. We are advised that homeowners rarely avail themselves of additional optional protections when offered, even where these would provide good quality protection; thus a warranty should be as inclusive as reasonably possible. As warranty applies to the building, not the builder, the homeowner is protected from the considerable problem of identifying who is at fault should there be a claim; it is up to the warranty company to pursue the builder, developer, suppliers or others if they wish.

**Recommendation #6:** There should be mandatory warranty, at least for all Condominium Buildings. This warranty should include water penetration protection for a period of at least 5 years. Warranty should be provided by companies at arms length from the building industry, and by companies with sound financial reserves, risk management experience, and adjudication procedures.

**Rationale:** Mandatory warranty will be more effective than other means, and strong warranty companies can be expected to put in place supporting initiatives such as further inspections, rating of builders/developers, and consumer education, as they have in other jurisdictions where warranty is mandated. It would also give warranty companies the right to withdraw the warranty if they are not satisfied with the construction process, thus leading to de-listing and potential cancellation of building and occupancy permits. This can add considerably to the oversight of quality in the construction process.

**Ramifications:** One significant issue will be the warranty/insurance industry's willingness to offer appropriate warranties in Nova Scotia that provide appropriate coverage at affordable fees. As such warranties are currently offered in some Canadian jurisdictions, and under investigation in others, it is recommended that research should be undertaken to understand the level of interest by prospective participating companies, the terms under which they would be willing to offer their services, and the size of market that would present a realistic business opportunity. Quality of the offering is important, both in terms of breadth and depth of coverage, and the financial reserves and resilience of the warranty provider.

As noted earlier in the discussion of single family dwellings, the recommendation for mandatory warranty could also be applied universally for all types of new home. Although the issue for single family dwellings is less urgent than that of large non-Part 9 condominium buildings, there are some sound reasons to consider mandatory warranty for all new homes.

- Although the demand for improved protection for single family dwellings is less severe, it still exists
- Recognizing that the Nova Scotia's new home marketplace is relatively small compared with the remainder of Canada, good quality warranty companies are more likely to choose to participate if there is universal coverage rather than coverage limited to some sectors
- It would avoid any deliberate market fracturing or re-designating of buildings by unethical developers/builders in order to avoid the need for warranty provisions

Introducing mandatory warranty universally would, however, significantly increase the number of builders and buildings requiring warranty, and also the level of oversight and workload of the necessary registration and enforcement processes. A phased introduction of such a universal mandatory warranty may be desirable, with application to non-Part 9 Condominium buildings in the first instance, with extension to all types of new home in subsequent stages.

As an alternative to warranty, there have been some proposals for *Financial Collateral* that would prescribe a security deposit to be paid by the builder or developer into trust, by a letter of credit or some other means, from which the cost of repairs due to defects in construction can be drawn, should these occur within a specified period of time. Although it is possible a surety bond could be used to provide this type of protection, most bonding companies would consider the required term to be unusual, if they would offer it at all. Some system of claims adjudication would have to be established to manage claims and to authorize any draw upon the deposit or financial collateral. It should be noted that this form of protection deals with the builder, not the building; the complexity of identifying who is at fault continues to exist.

We cannot recommend this alternative; industry specialists have consistently rejected the option of Financial Collateral as an alternative to Warranty. The reasons given are excessive costs, administration would be problematic, and it offers little likelihood of satisfaction to homeowners. Mandatory warranty, implemented in several Canadian jurisdictions, has proven much more satisfactory in all of these respects.

## **2.4 Other Homeowner Protections**

There are other important protections for purchasers of new homes that are not directly related to construction and the quality of the finished product. These include protection of moneys paid on deposit, and improved buyer knowledge and awareness through consumer education.

### **2.4.1 Protection of Deposits**

In many instances, such as most cases when a purchase is made through a licensed realtor, deposits are placed in trust and protected. However, this does not always apply, especially in the case of Condominium purchases. In many cases developers use these funds to finance construction. In this case the purchaser has no protection in the event that the developer fails to complete the project, due to insolvency or for any other reason.

**Recommendation #7:** Regulations should require that deposits for new home purchases of any type should be secured, through deposits in trust or other

equivalent means, to protect the purchaser from failure to complete the development.

**Rationale:** This has been accepted as required change by many consumer groups and organizations, and has been implemented in other Canadian jurisdictions as an essential form of protection.

**Ramifications:** This enforcement may require change to consumer protection regulations and/or legislation. It is important that the change is enacted in such a way that deposits are assured to the homeowner as being in trust, and that the only access to these funds by a builder or developer is through an arrangement offering its own protection such as a bond.

### ***2.4.2 Homebuyer Education***

Another non-construction related change to improve homeowner protection is an increase in consumer education. Consumers are often not aware of the protections that are available to them. Purchasers can lose their protection under warranty agreements due to lack of understanding of their obligations. Homeowners often do not have, or do not take, the opportunity to scrutinize builder's or developer's historical performance. Too often, the industry has promoted a "we'll take care of you" attitude rather than encouraging purchasers to take their own precautions.

**Recommendation #8:** There should be a coordinated program of material available to inform the new homeowner of protections available. This should be straightforward, informative and widely disseminated. It should be separated from marketing and sales promotion materials. It should include a checklist to be a component of the final sales process.

**Rationale:** New home purchase is a major event, and can be a stressful time. Organizations responsible for preparing homebuyer educational materials must recognize this in presenting accurate information, and ensuring that it is understood, at a time when the purchaser is in a position to make informed decisions. This can go a long way to ensure that purchasers make use of protections that are available, and has proved to be effective in other Provinces.

**Ramifications:** Improved homebuyer education requires significant coordination by the regulatory authorities, both Provincial and Municipal, by building code authorities, warranty companies, trade associations, the professions, realtors and other stakeholders.

## **3 Delivering Homeowner Protection**

### **3.1 Managing Change**

There are various structural approaches across Canada to achieve quality outcomes in the new home construction sector. These are described more fully in Appendices A3.4 and A5. They range in scope from the British Columbia model where the government has established a large Homeowner Protection Office and through legislated authority manages the registration, licensing, education and training of builders, oversees the home warranty program and polices the home construction industry. Ontario has established a similar model, but through an arms length not for profit corporation. Both these jurisdictions have very large markets of both home builders and buyers so that funding such an approach is feasible.

Other jurisdictions, such as Alberta, rely on market forces to ensure quality outcomes. The voluntary home warranty program invests resources in builder education and training, thereby improving the quality of the industry. Buy-in by the industry has been positive.

In Manitoba, the home warranty program is voluntary and only covers single family dwellings. However, there is recognition by the government that condominium entities present unique problems. More inspection, surety bonding and stronger oversight by professionals were seen as appropriate however their stakeholders commented that even though the problems are either caused by poor design or poor construction it is often difficult to sort out which. Rather than put the consumer in the 'middle', they are considering mandating warranty coverage to be provided by reputable insurers.

The BC and Ontario structural models are all-encompassing, requiring a relatively high level of investment of resources and needing a very large population base for support. The Manitoba model is more suited to a smaller jurisdiction and takes an incremental and fairly efficient approach.

The process of this review and the efforts to date of organizations which represent both industry and consumers have all contributed to an increased awareness of the need for change. As the previous sections of this Report indicate, the consulting team was provided with excellent suggestions for improving the situation for consumers and there is a willingness on the part of industry to improve performance. It will be important for all the parties to recognize that a successful outcome for consumers requires that changes be implemented as quickly as possible, but in a manner that ensures success. Badly managed change processes can cause more problems than they cure.

The consulting team recommends that changes be implemented incrementally, and that ownership of each initiative be clearly identified and Government track the changes to ensure that real progress is made.

### **3.2 Approaches and Options**

There are a number of ways to assign ownership and management of the changes that we believe are necessary. Nova Scotia can choose from among the following options:

### 3.2.1 Strengthen Existing Mechanisms

Government can **strengthen a number of existing mechanisms**. For example:

- Mandate building envelope and/or enhanced municipal inspection through the NS Building Code. The Building Code Advisory Committee, which provides advice to the Department of Labour and Workforce Development on Building Code amendments and which has representation from professional and industry organizations, appears to be the most suitable body for leading this initiative.
- Establish in legislation or regulations the minimum acceptable warranty coverage. The effect of this would be to make the market in NS more desirable to insurers, since there would now be something close to guarantees with respect to volume of business.
- Create or amend legislation to require developers to provide evidence of a warranty program which covers water penetration. A warranty provider must be secured at the time of initial registration, prior to issuance of a building permit, and warranty availability confirmed prior to issuance of an occupancy permit. The evidence would have to be provided to a body which has responsibility for managing some form of registry. Further, should a warranty company revoke their commitment to provide a warranty, this body would have to be notified.

### 3.2.2 Leverage Market Forces

Government can build on the existing efforts of consumer groups and the recognition of industry of the need for change **by leveraging market forces** and the private sector to a greater extent. Government could:

- Invite existing insurers in this jurisdiction and others to expand coverage in the Nova Scotia market for the express purpose of providing warranty coverage for condominium projects, particularly for the unfortunate eventuality of water penetration or building failure. This coverage would be in addition to current offerings and could result in coverage similar to that provided in British Columbia:

Term	Coverage
1 year	Defects in materials, design and labour
2 years	Defects in materials and labour for mechanical and electrical systems, and exterior cladding, etc.
5 year	Defects in building envelope permitting water penetration
10 years	Failures in load bearing part of home

- Rather than mandate building envelope inspections through the NS Building code, rely on warranty providers to perform building envelope inspections in order to protect their risk. Developers and builders with poor track records would find themselves unable to obtain warranty coverage.
- Leave licensing and registration to the private sector, through a self governing body whose objective is to achieve quality outcomes in the construction industry. While licensing and registration of builders and developers would not cause an

immediate improvement, if tied to mandatory education and training programs the process over time should cause an improvement in the quality of work and a better product.

### **3.2.3 Create a new Homeowner Protection Office**

Finally, Government could bring the overall responsibility for monitoring the marketplace and implementing change initiatives into a **new Homeowner Protection Office**, which could function as a unit of Service Nova Scotia & Municipal Relations. This new office could have responsibility for:

- Managing a developer or builder registry, necessary should mandatory warranty be required. Such a registry could also serve as a vehicle for tracking complaints (and compliments) about builders and developers and in time might become a reference source for consumers. Developers and/or builders would be charged a registration fee sufficient to allow the registry office to recover its operational costs.
- Liaise with the sector including warranty providers, professional bodies, authorities having jurisdiction and industry and consumer groups. This is not a small task. There are many jurisdictions and organizations involved in the home construction sector, each with distinct and appropriate responsibilities. If change is to occur in a timely fashion and problems anticipated so they can be resolved before they become costly, strong leadership and efforts to coordinate are extremely important.
- Coordination and communication with other Government programs involved in regulating the home building industry or providing services to the home buyer. Consumers complain about not knowing who to turn to if there are problems. A Homeowner Protection Office could be that place to go, but it will be necessary for the Office to present an organized face to the public. This involves knowing what is going on in other departments and levels of government and seeking cooperation and coordination among them.
- Developing, coordinating and disseminating consumer education materials. For example, the Homeowner Protection Office could partner with other organizations to produce 'one stop' materials for home purchasers. Consumer education has become a large focus of programs in other provinces, such as British Columbia, Alberta, Quebec and Ontario. Its value cannot be understated. Informed consumers are one of the most effective mechanisms for achieving a fair marketplace.

The overall objective is to find the most efficient and economical way to help to ensure that purchasers of new homes receive a good quality product, and have reasonable means of recourse in the event that failure of the finished product does occur.

## **3.3 Implementation Considerations**

An approach to implementation of the recommendations of Section 2 of this report must take into account the inter-relationships and inter-dependencies between a number of the recommendations that have been made. Improvements to protection of new homeowners will be more effective if the approach is systematic and demonstrates improvement as a whole.

An important example of this is in the area of strengthened and mandatory new home warranties. The warranty and insurance industry have advised that their interest in the Nova Scotia new home marketplace, and the affordability of their offerings, will very much depend on the other statutory protections that are in place. These include effective processes for registering builders and developers, strengthening of the inspection regime including mandatory inspections, and breadth of coverage. Thus it is important to take a comprehensive view and analyze all factors before adopting specific individual recommendations.

In proceeding to implement the recommendations of this report, the following are suggested as important initial activities:

- Liaison with the Province of Manitoba and the approach being made there to address that Province's apparently similar concerns with new homeowner protection, particularly for condominium owners. Of particular interest would be any experience gained and common approaches to the Warranty and Insurance industry. Any opportunities to leverage a common approach could only be positive for protection of Nova Scotia's new homeowners.
- Working with the Building Code Advisory Committee, and through it, the Professional Associations, to better understand the implications of strengthening Letters of Undertaking, and changes to the inspection regime. This will include developing a plan, both short and long term, for implementing these changes, and their impacts on other aspects of homeowner protection.
- Assessing the need for legislative and/or regulatory change that will enable the specifically recommended changes to be implemented. These include registration of Builders and Developers, Mandatory Warranty, changes (if needed) to the administration of Letters of Undertaking and Inspections, and, as a priority, changes required to ensure protection of homebuyer's deposits.
- Communicating with the New Home Warranty provider sector in Nova Scotia and across Canada, to understand their business interests in the Province's new home marketplace and the impact of proposed regulatory change.
- Through the Building Code Advisory Committee, engage the Municipal offices responsible for Building and Occupancy permit issuance to ensure that compliance procedures can be implemented.
- Embark promptly on a program to assess and improve consumer education. This should include in the first instance identifying currently available resources and materials from private and public sector bodies within and outside of the Province; categorizing them for their suitability for the purpose; identifying gaps; ensuring that appropriate materials are made available through existing and any new channels. Ongoing activities will include filling gaps and generating new materials, and bringing content into alignment with legislative, regulatory and other improvements in homeowner protection as these are implemented.

These activities must be coordinated carefully. There are many inter-dependencies between the functions of several government agencies and other organizations that, if managed effectively, will enable the delivery of an improved program for new homeowner protection.

## **APPENDICES**

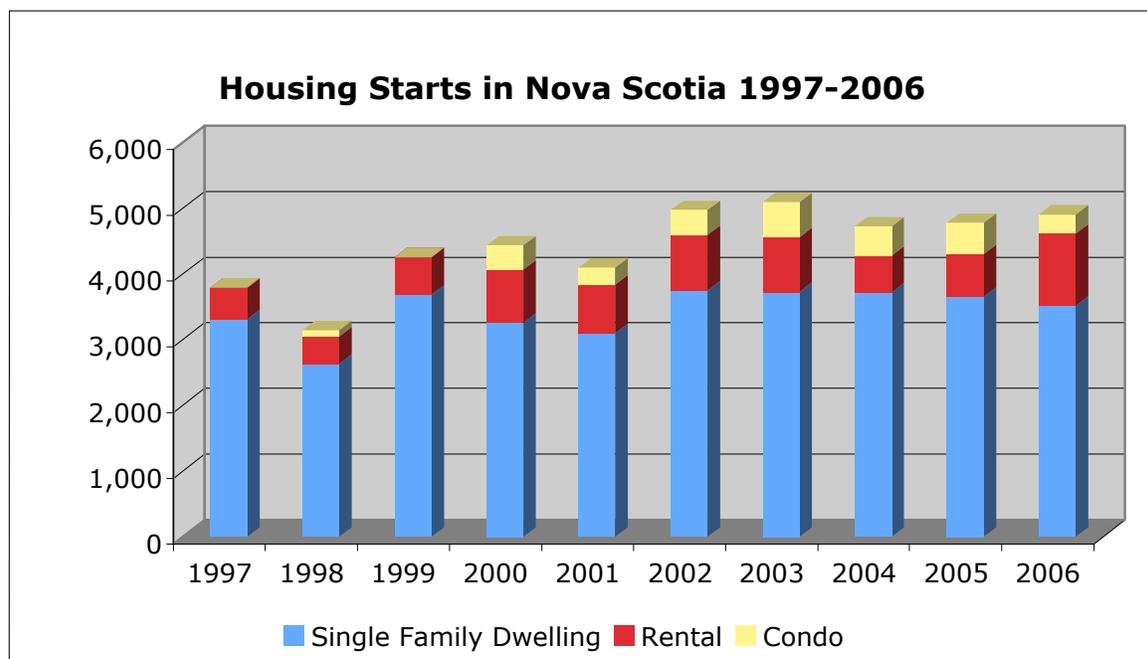
Appendices A1 to A6 which follow include information taken from the discussion paper referenced at the beginning of this report. An exception is Appendix A4 which summarizes feedback received following the publication of the discussion paper.

## A1 New Housing in Nova Scotia

### A1.1 An Overview

Nova Scotians take pride in their homes and are among the most likely Canadians to own their dwelling with 71.8% of them owning, versus the Canadian average of 65.8%. We are a small market with 376,840 households (2006).<sup>1</sup> In the five year period 2001-2006 the number of new dwellings grew by 4.7% with much of this growth concentrated within the boundaries of HRM. In that same five year period there was an average of 4,890 new housing starts of all types each year.

In the ten-year period (1997 - 2006) new housing starts in Nova Scotia have generally followed the pattern of those elsewhere in Canada. The Nova Scotia historical trends are illustrated in the following chart and tabulated in further detail in section A1.2 Housing Start Data, below.



*Data Source: Canada Mortgage and Housing Corporation*

Condominium construction in Nova Scotia has represented a very small proportion of housing starts. Although the number of condominium units is relatively low, it does have a significant growth trend that can be seen in the chart above. The highest proportion of new condominium construction starts was recorded in 2003 when they were 10.4% of all new construction. By contrast, in Canada in 1997, 18.7% of housing starts were condominiums and this proportion grew to 31.7% of all Canadian housing starts by 2006.

<sup>1</sup> CMHC Time series G, Canadian Housing Observer, Households by Type and Tenure, Nova Scotia, 1971-2006.

Similar to the experience across Canada, in Nova Scotia the greatest number of condominiums are built in major urban centres, particularly Halifax and surrounding areas. Although there has been considerable publicity given to a number of seriously troubled developments, in HRM evidence suggests there are perhaps twelve problem buildings in the condominium market, many of which are under remediation or have now been remedied. Those problem buildings, however, represent a large financial exposure to individual unit owners, so the impact of the failures should not be minimized – they are a serious concern to those affected, as well as to the industry as a whole.

Anecdotal information also suggests that the quality of new home and condominium construction has been improving, with those in the single family dwelling market receiving national and international recognition for quality construction, and those in the condominium market becoming better attuned to best practices in managing complex projects. There is also more emphasis on the importance of the reputation of builders and developers and the recognition that this is important to success.

According to CMHC the housing market in Nova Scotia is softening, with buyers now at an advantage compared to builders and developers. In other words, the market is very competitive and this should help to drive up quality. However, this softening also leads to the risk of construction projects being left incomplete, and of important participants leaving the marketplace altogether.

A home is likely the largest single purchase a consumer will ever make. Most builders and developers work hard to provide a good product, but buyers want assurances that they will receive a quality product. Nevertheless, a home is likely the largest single purchase a consumer will ever make. Most builders and developers work hard to provide a good product, but the quality of some newly built homes (both houses and condominiums) remains a concern for buyers.

## A1.2 Housing Start Data

In the ten-year period (1997 - 2006) new housing starts in Nova Scotia have generally followed the pattern of those elsewhere in Canada as illustrated in tables A1.2.1 and A1.2.2. Housing starts in Nova Scotia have been as low as 2.5% of housing starts in Canada in 2006 and as high as 3.4% of Canadian housing starts in 2000.

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Home-ownership	88,009	82,892	89,189	92,283	95,125	123,106	121,890	124,678	114,008	113,743
Rental	7,559	6,531	9,276	10,155	14,681	18,841	19,939	20,343	17,210	18,518
Condo	27,471	27,351	28,434	28,319	31,986	36,798	49,212	58,852	60,251	61,817
Other	182	19	204	295	488	379	870	516	2,002	946
Total	123,221	116,793	127,103	131,052	142,280	179,124	191,911	204,389	193,471	195,024

<sup>2</sup> CMHC Housing Market Indicators, Canada, 1997-2006

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Homeownership	2,225	1,664	2,263	1,867	1,765	2,493	2,219	2,310	2,133	1,941
Rental	479	418	571	810	746	847	833	559	643	1,096
Condo	0	89	0	371	256	378	530	445	481	290
Other	28	0	0	2	0	3	9	0	0	0
Rural Centres	1081	966	1416	1382	1325	1249	1505	1403	1518	1569
Total	3,813	3,137	4,250	4,432	4,092	4,970	5,096	4,717	4,775	4,896

Condominium construction in Nova Scotia has represented a very small proportion of housing starts with the highest proportion of new condominium construction starts recorded in 2003 when they were 10.4% of all new construction starts. By contrast, in Canada in 1997, 18.7% of housing starts were condominiums and this proportion grew to 31.7% of all Canadian housing starts by 2006.

The number of new condominium corporation registrations in Nova Scotia grew steadily from 1998 to 2007, but then declined in 2007/08 as indicated in table A1.2.3.

Fiscal Year	98/99	99/00	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	Totals
Number of Registrations	4	7	6	9	13	14	13	18	25	19	128
Number of Units	78	85	148	303	642	391	499	540	745	306	3737

As the previous tables indicate, the volume of new home construction activity is relatively low in Nova Scotia, and, accordingly, the number of recorded complaints is relatively low.

<sup>3</sup> CMHC only reports Intended Market for those communities of 10,000 or larger. To make the Nova Scotia table comparable with Canada we have added the data for Rural Centres.

<sup>4</sup> Information provided by the Registrar of Condominiums, SNSMR

## **A2 The New Home Construction Process**

This appendix provides a brief overview of the building process and describes the responsibilities of the various groups or individuals that have regulatory authority or other roles in the design and construction process. It is intended to provide context for the comments we heard and the review of suggestions made by various stakeholders. The regulations and standards that apply to construction of “small” buildings are different in many respects from those that affect “large” buildings. This distinction is highlighted in the following sections.

### **A2.1 Building Design Standards**

The Province of Nova Scotia has adopted the provisions of the National Building Code of Canada 2005 (NBC), subject to relatively minor revisions, as the Nova Scotia Building Code. The Code sets the standards for the construction of all buildings.

The NBC (and therefore the Nova Scotia Building Code) establishes materials, design and construction standards for a wide variety of types of buildings. Generally speaking, relatively small buildings that can employ proven, conventional wood frame building techniques are regulated in Part 9 of the Code. It sets out prescriptive (non-discretionary) standards for materials and methods and construction details for buildings that are three stories or less in height and have a foot-print less than 600 sq metres. These include all single family housing construction, townhouses, and multi-family buildings such as the three story apartment buildings.

Most single family dwellings are built from stock plans or as one of a series of similar homes constructed by an established builder. They use standard construction details governed by Part 9 of the Code and well established industry practices. Architects and engineers are rarely involved directly. Major problems with construction quality, although not unheard of, appear to be relatively rare considering the numbers of homes that are built each year.

Larger, more complex buildings are not covered by the prescriptive construction methods in Part 9 of the Code. They are governed by standards set out in the other sections of the Code. Architects and engineers interpret and apply the Code’s performance requirements within the context of each specific design.

It is important to note that large buildings are complex custom built structures, not production line products. Each one employs a combination of materials and construction techniques that is a compromise between the developer’s and architect’s design vision, marketability of the product, construction durability, construction efficiency and cost. Developers, architects, engineers and builders will employ methods that they feel strike the right balance between these sometimes conflicting objectives but there is no one “right way” to build a building. The Building Code establishes performance standards but, except in the case of smaller Part 9 buildings, leaves it to the designers to decide how the standards are to be met.

## **A2.2 Roles and Responsibilities**

### **A2.2.1 *Owners and Developers***

By and large, with single family dwellings the owner deals directly with the builder. There are exceptions, of course, where community developments are undertaken by large organizations, but often in these cases the potential purchaser will deal directly with the company handling the building of each home in the community. In the case of manufactured homes, the manufacturer's retailer may take responsibility for foundations and other features such as decks, with the home delivered to the site by the manufacturer. In this case, the purchaser will deal with the retailer directly. Because of the fairly straightforward nature of the construction of single family dwellings these interactions are normally quite well understood by the homeowner.

A developer of a large building can be a company that focuses on construction of buildings that it intends to own for the long term on a rental basis, or a company that intends to sell units as condominiums and take a profit relatively quickly. The usual practice for condominiums is to incorporate a separate company for each project thereby insulating the parent company from project specific risks. In either case the developer might hire an experienced general contractor to construct the building on its behalf or, more commonly, organize, supervise and manage the construction process itself through a combination of trade contractors and own forces labour. The construction management capacity and experience of the developer has a large impact on the quality of the finished building. The relationship between the home purchaser (unit owner), the condominium corporation and the developer is much more complex than in a single family home situation.

### **A2.2.2 *Architects and Engineers***

As noted above, most single family houses are built from stock plans without the direct involvement of an architect or engineer. A typical building design team is led by an architect who is responsible for the overall design of the building and prepares the detailed specifications and drawings for the "architectural" components. The roof and wall assembly details that ensure a building will be watertight fall within the architect's area of responsibility. The architect or the developer will hire engineers to prepare the drawings and specifications for the structural, civil, electrical and mechanical elements of the building.

The statutory definition of architects' areas of practice is narrow enough to prevent an architect from doing the work of an engineer. However, the definition of the engineering area of practice is significantly wider, in effect allowing a licensed engineer to work within any field of engineering as well as perform the work usually assigned to an architect. This is not intended to imply that many engineers move outside of their individual areas of professional experience and expertise, but there is nothing to prevent them from doing so. We have been advised that there are instances where an owner or developer has retained an engineer to design details that are, arguably, outside of his or her area of expertise and the resulting work has not performed as well as expected.

### **A2.2.3 *Building Inspection During Construction***

The municipal building authority will review the plans of Part 9 buildings for conformance to the Code before issuing a building permit and inspect them during construction during

the course of periodic inspections. They do not check the quality of construction and do not provide guarantees to the owner. Their role is limited to Code compliance although they will point out obvious and visible defects in workmanship where they compromise Code compliance. They do not do any testing or removal of materials during the course of inspection although they have the authority to require that this be done.

The municipal inspector cannot verify every aspect of a building under construction even if it is readily apparent. A great deal of reliance is placed on the industry's knowledge of materials and techniques. This general level of reliance does not seem to be seriously misplaced, as the incidence of serious problems with small buildings appears to be relatively low.

With larger, more complex non-Part 9 buildings municipal building authorities review the designs of architects and engineers for compliance to the minimum standards of fire, life safety and accessibility. Their inspection of these buildings is also limited to these components. An overall building design is comprised of both the prescriptive fundamentals of code and the anticipated performance of the materials and assembly selected by the designers. Municipal authorities therefore state, with some justification, that they do not have the resources and expertise to assess whether or not construction will perform to the expectation of design and further that this is the role of the designer as set out in their legal undertakings.

The Building Code Regulations place the responsibility for ensuring that the design and construction of non-Part 9 buildings meets the Code squarely on the architects and engineers through a mechanism that requires them to provide "letters of undertaking". The Regulations require every owner and the design professionals to provide letters of undertaking in a prescribed form in which they state to the municipal building authority that "field reviews of construction" have been done by qualified professionals.

The purpose of these letters of undertaking is to provide assurance to the municipal building inspectors that complex buildings are being designed to the Code and that appropriately qualified professionals will inspect during construction. Reliance is placed on the professionalism of the architects and engineers. Field review of construction is defined in the Building Code Regulations as:

*"the inspection of the construction work at intervals appropriate to the stage of construction, at the project site ... that the designer in their professional discretion consider necessary to determine general compliance with the design drawings ... Field Review of Construction does include the coordination, quality and performance of construction."*

The design professionals are not on the site daily and do not see everything that is going on even when they are there. Typically the architect or engineer would be on site once a week or once every other week to inspect whether the work that is readily visible generally complies with the intent of the design, to assess progress and deal with issues that have arisen. They are not typically hired or paid sufficiently to monitor construction quality on a continuous basis.

For both Part 9 and non-Part 9 buildings, the developer's or contractors' own site inspections are an important part of the quality control process. Typically, developer/builders and general contractors will have a site supervisor to review all the work to ensure it is done and in accordance with the drawings and specifications. Similarly, trade contractors should have a job foreman who oversees the work of their

own employees and sub-trades. The real control over quality of construction and the way in which important details are executed lies with the developer and the contractor.

There is a very active independent home inspection industry with many practitioners in Nova Scotia, although it focuses most of its efforts in the resale single family dwelling market. Some of these independent inspectors become involved in new home construction, usually on behalf of one of the warranty program providers. Warranty programs will inspect a building during construction at the usual three stages but this is not a universal practice.

The independent home inspectors are rarely if ever involved in condominium unit transactions in large buildings. Even if they were to inspect a new unit on behalf of a buyer at the time of purchase, they could not detect problems with the building structure or wall assembly except in the most egregious cases.

In the 1990s a serious problem arose in British Columbia from water penetration in a large number of condominiums. This created a new industry of “building envelope inspectors” comprised of people with architectural or construction trades experience who diagnose water penetration problems and supervise and inspect both remedial and new construction to ensure that the design details are appropriate and the work is being done properly.

Building envelope inspectors provide a much higher intensity and frequency of inspection services than either the architects or the municipal inspectors provide, amounting to continuous inspection in some cases. Some of these inspectors are independent and some are employees of the architectural firm. This type of building envelope inspection service is available in Nova Scotia but they are few in number and focus on large commercial buildings.

#### **A2.2.4      *Lawyers and Realtors***

Agreements of purchase and sale for new units are prepared using standard forms. The single homes would typically use a form based on the Real Estate Association standards and condominiums use a more complex form prepared by the developer. The purchaser’s lawyer is often not brought into the transaction until after the agreement has been signed, and even if consulted in advance can do little except explain the rights and responsibilities that have already been agreed.

In the case of new large scale single family developments and condominium projects, the realtor sometimes acts as the primary marketing agent for the developer. As long as the purchaser agrees, the realtor can act as agent for both the purchaser and seller. In effect, many purchasers enter into agreements of purchase and sale for homes or condominium units without the benefit of independent advice or representation. Neither lawyer nor realtor are in a position to provide quality assurances.

#### **A2.2.5      *Registrar of Condominiums***

The *Condominium Act* establishes the framework for the incorporation and management of a legal entity called a condominium corporation. It describes the registration process and reporting requirements for condominium complexes whether new construction or conversions. The Office of the Registrar is concerned with ensuring that the information that the Act requires is provided and that the plans for the complex contain all the information required by the Act. The Registry staff do not assess the quality of design or construction and are not mandated by the Act to protect consumers in this way.

## **A3 The Current Situation**

### **A3.1 Inputs from Nova Scotia Stakeholders**

In the early stages of the investigation numerous stakeholder groups were interviewed to gain a better understanding of the current situation, suggestions for improvement and to draw from the experience of others. These stakeholders included:

- Representatives of the construction industry
- Building trades organizations
- Developers
- Inspection organizations
- Regulatory bodies
- Design professionals, engineers and architects
- Warranty, insurance and bonding companies
- The real estate industry
- The legal sector
- Consumer protection groups
- Homeowner associations
- Other interested parties

The consultant team would like to acknowledge the considerable contribution of time and knowledge willingly provided by these stakeholder organizations. They provided valuable input from numerous well informed perspectives.

### **A3.2 Findings from Stakeholder Interviews**

From the consultation with stakeholders there was, as expected, a broad range of suggestions for improving new homeowner protection. However the following observations stand out as a consensus of consistently held views and opinions:

#### **a) Improving the Quality of Construction**

Stakeholders emphasized repeatedly the need to prevent the problems from occurring in the first place. Water penetration or building envelope failure, which is the most significant problem that has arisen in a number of large condominium projects, is extremely expensive to repair. The remedies available to the condominium corporation are highly unsatisfactory because they involve complicated and challenging legal actions which only add additional costs.

It is perceived that many of the more serious defects are due to builders' failure to follow what could be regarded as current best practice in construction techniques, particularly as they relate to the building envelope. To raise the bar and improve professionalism, mandatory licensing or registration of builders and/or developers, tied to training programs, have been advocated by industry groups. Grandfathering existing builders is suggested, in order not to adversely impact those already in the business. Advocates acknowledge that improvements will take time and so this seen as a long term solution to improving the quality of construction.

Others have commented that it's often not the 'guy pounding the nail' that is the problem, but that supervision of the trades either by their foreman or the developer/builder's site manager is inadequate. Improvements in project management and site supervision are

needed. Still others have commented that building materials and techniques have changed significantly during the past decades and builders may lack the necessary knowledge and expertise or do not understand how new products interact or should be installed.

#### **b) Inspection during the Building Process**

Some stakeholders have said that inspections during the building process should be more rigorous, and that reliance on architects and engineers 'Letters of Undertaking' or municipal inspectors' review of Part 9 buildings has not proven to be sufficient. Suggestions have included mandatory third party inspections of large multi story buildings, especially during the critical 'building envelope' phase, and specific inspection for protections from water penetration. Also recommended is more inspection by the design professionals and a strengthened role for municipal building officials, including inspection of non-Part 9 (large multi-story) buildings.

#### **c) Registration, Licensing of Developers and/or Builders**

The potential for registration and licensing of developers and/or builders has been raised as a vehicle to increase their commitment to and acceptance of responsibility for the finished product. Registration allows an authority to "police" builders and developers, and, where other mandatory provisions apply, revoke registration if there is non-compliance. Registration might also allow authorities to record and publish builder's and developer's historic performance, to assist buyers in their choices.

#### **d) Warranty Programs**

Many stakeholders have argued that warranty programs should be mandatory, however they have also said that current warranty programs are inadequate and don't provide the protections that are needed. Where warranty programs exist, they typically only cover structural defects affecting the load bearing portion of the structure. They rarely protect homeowners from the type of envelope failure that leads to water penetration, a problem that has had such serious consequences for some condominium owners in Nova Scotia. There is also a perception that warranty programs are not sufficiently 'arms length' from the building industry and are therefore acting more in the interests of builders and developers than consumers.

Others expressed the concern that making warranties mandatory and expanding their scope could have an adverse impact on the market, and some believe that additional costs will not be accepted. For a comparison, in British Columbia a condominium warranty that includes water penetration protection adds between one and two thousand dollars to the selling price of a unit (for single family dwellings the costs are less). This must, of course, be put in the perspective of experiences encountered in Nova Scotia: some condominium owners, with no building envelope or water penetration warranty, have incurred costs of tens of thousands of dollars in remediation expenses per unit, many times more than the cost of a protective warranty had one been offered or available.

Many warranty organizations, particularly in jurisdictions where warranty is mandatory, require a performance bond from developers/builders and frequently have experience rating systems of their own. The purpose of such rating systems is to reward

developers/builders that achieve higher quality standards (and thus have fewer claims) with lower rates and less stringent bonding demands, and to penalize those with less satisfactory performance by assessing more severe demands and higher rates.

The comment was also made that a mandatory warranty environment requires more administration. “Policing” mechanisms, such as that in British Columbia where building permits will not be issued by municipalities until proof of warranty and builder or developer registration is provided, would have to be considered.

### **e) Deposits in Trust**

While for single family dwellings buyers deposits are normally held in trust, this is not often the case for purchasers of condominiums. When not held in trust developers can, and do, use these deposits to fund the building project. There is a risk that if the project fails such deposits could be lost. Many jurisdictions insist that all deposits must be held in trust, and that developers that wish to have access to these funds must do so by insuring them or raising an appropriate bond where the buyer is protected

### **f) Consumer Education**

Buyer education and awareness is seen by many organizations that were interviewed as being an important requirement. Consumers need to better understand their purchase and particularly understanding the redress options available to them and how they operate. It was reported by many stakeholders that purchasers are often unaware of what is expected of them, do not pay attention to or understand warranty offerings and what is contained in them, and do not understand the role of the regulatory organizations.

As a consequence buyers may have inappropriate expectations; they may believe that they have protections that are not in fact there; they may not explore all options available to protect them; and they may not take timely and appropriate action so that remediation of problems can be made.

Many organizations and jurisdictions have worked diligently to improve home buyer education. Buying a home can be stressful, and the times of purchase and occupation may not be “learning moments”. Buyer education programs need to be sensitive to this, yet it remains an important part of the overall homeowner protection process.

## **A3.3 Input from New Home Buyers**

### **A3.3.1 On-Line Survey**

In addition to the stakeholder interviews outlined above at an early stage of this review there was an on-line survey followed by new homeowner focus group interviews. The survey and focus groups sought information from those who had purchased new homes or condominium units since 2000. There were 131 completed responses to the survey, with 80% of these from condominium owners, 20% from newly constructed house (freehold) owners and 3 not identified. 5% of respondents bought in 2000, 24% bought in 2004 and 9% bought in 2007.

Respondents indicated that at the time of purchase only 38% had been provided with information on the process for resolution of any construction-related problems if they

occurred, while 62% indicated that were provided with information detailing any construction warranties or guarantees that applied to their property.

When asked if they had experienced any construction or warranty related difficulties, 90% said yes. This indicates that the survey attracted individuals with a complaint or problem. Of those with a warranty (71%) only 9% indicated that the warranty program had responded satisfactorily to the issue. Only 23% of those who dealt directly with the developer reported that the experience was satisfactory.

There were many types of complaints of unresolved problems, but by far the most common issues revolved around water penetration. Respondents noted many other issues such as poor workmanship, problems with plumbing, windows, cracks in walls and ceilings and incorrect use of materials that resulted in later failure of the building envelope.

A number noted that their dealings with their home warranty provider were less than satisfactory often because of disputed claims or faults such as with finished flooring that the warranty program does not cover. Others noted that builders' attention was very variable in dealing with defects or problems noted in the first year after construction, with some problems quickly rectified while others never received adequate attention.

### **A3.3.2 Focus Group Summary**

Three focus groups were conducted with individuals who responded to the online survey. These volunteers can not be considered in any way representative of home owner opinions but their perceptions of the issues/problems they have been dealing with reinforced the information we had gathered from other sources; namely that there are some serious problems and issues connected with the building and ownership of condominiums, but fewer issues for single family home ownership protection.

For the condominium owner, concerns centered on the issue of independence, or lack of it, in the relationships between Realtor, Developer, the Architects and Engineers responsible for the inspection process, and Property Managers. Also the lack of clarity and ownership of financial responsibility for future problems with a completed building was a serious concern. Again water penetration was at the centre of many of the complaints discussed.

For single-family dwelling owners, the problem was much more about building a better understanding of the construction and then warranty process. Issues and problems for single-family dwelling owners focused more on difficulties of getting satisfaction from home warranty providers, often the result of poor construction practices. In both cases there were many misperceptions and plain incorrect understandings of the current rules and processes. A number of participants said they believed that a better process of consumer education was needed to help address this issue.

### **A3.4 Experience in Other Jurisdictions**

As part of our study we interviewed Nova Scotia's regulatory counterparts and also warranty providers in many other Canadian jurisdictions. Several Provinces have recently undertaken or are undertaking reviews of the provision of new homeowner protection. Some provinces have made significant change to the legislated requirements for both prevention and for redress. Other jurisdictions have made more

gradual enhancements to their programs, while the remaining Provinces continue to operate with similar homeowner protection to that currently available in Nova Scotia.

A detailed comparison of homeowner protection and new home warranty programs across Canada is provided and tabulated in Appendix A5 to this document. The table below outlines some of the highlights of these programs, and some more important changes that have been made together with their relevance to the situation in Nova Scotia.

<b>Province</b>	<b>Program Highlights</b>	<b>Relevance/Contrasts to NS</b>
British Columbia	Mandatory registration of developers and builders Mandatory Warranty provided by 3 <sup>rd</sup> party Insurers Water penetration included in warranty Warranty programs conduct their own mandatory inspections	Water penetration was a major issue driving change and program reform In NS, the most serious complaints relate to water penetration
Alberta	Voluntary warranty program with a high level of enrollment Reform underway to distance the management of the warranty program from construction industry Strong focus on builder and consumer education	Voluntary warranty program as currently in NS Alberta has a larger and more active development marketplace
Saskatchewan	Protections and voluntary home warranty similar to Nova Scotia	Comparable demographics to NS
Manitoba	Currently offers similar protections and warranty to NS. Is undertaking program review related only to condominiums, with interest in insurance companies providing warranty coverage	Review based on concerns in the Condominium Sector Comparable demographics to NS
Ontario	Mandatory builder/developer registration Mandatory warranty A single organization, Tarion, is the regulator, provides warranty, oversees and also conducts inspections, is the adjudicator, and provides consumer education	Development sector many times the size of NS
Quebec	Mandatory builder/developer registration Mandatory warranty (except larger condominiums) provided by three private insurers Mandatory pre-delivery inspection by homeowner	Program strongly regulated by the Quebec Government
Atlantic Provinces	All currently have voluntary warranty programs, and do not have builder or developer registration	

The above summary shows clearly that the situation in Nova Scotia is by no means unique; many other Provinces have been faced with the need to review and enhance protections offered to new homeowners, in some cases for reasons very similar to those prevailing here. This can be seen as encouraging; it means that there is a range of proven options and choices that can be implemented if desired and appropriate in Nova Scotia. It also means that Nova Scotia can benefit from several years of experience gained elsewhere and can make informed choices, with a clearer understanding of both the merits and the implications of the available alternatives and options.

### **A3.5 Published Studies and Reports**

Numerous reports have been prepared by many organizations, especially those undergoing change to their programs and those evaluating consumer choices and protections related to residential housing and construction. Readers may wish to investigate further some or all of the following:

- i. The “Barrett Report”: The Renewal of Trust in Residential Construction, Government of British Columbia, June 1998, at <http://www.qp.gov.bc.ca/condo/>
- ii. Gaps in New Home Warranty Coverage Across Canada, The Consumers Council of Canada, 2007, from <http://www.consumerscouncil.com/index.cfm?pid=15284>
- iii. Housing & Home Warranty Programs World Research, Organization for Housing Warranty, Japan, Sept 2005, at [http://www.ihwc.jp/sessions/World\\_Research.pdf](http://www.ihwc.jp/sessions/World_Research.pdf)

It can be broadly stated that published reports would generally agree with the findings from stakeholders that are noted above, particularly with regard to strengthened construction standards, inspection and warranty provisions. Canadian studies and reports have frequently recommended that provinces should endeavour to coordinate their new homeowner protection programs with common approaches, standards and regulations wherever possible. The reasons given for this are:

- People move between jurisdictions, and when they move they often buy new homes. It would be helpful if their expectations for homeowner protection could be met through means that are as similar as possible, to avoid confusion and misunderstanding.
- All sectors of the industry, including construction, warranty and financing, are more likely to be in compliance if they are aware of similar rules, regulations and expectations.
- Warranty, insurance and bonding companies are more likely to want to do business in Nova Scotia if they know that the risks that they are expected to bear are similar to the risks that they have experienced elsewhere.

## A4 Findings from the Discussion Paper responses

As part of this study a Discussion Paper and Response Booklet were prepared for public review. The public was informed of the availability of the discussion paper through newspaper advertising and the document was made accessible on the Nova Scotia Government's web site at <http://www.gov.ns.ca/snsmr/nhp/> from mid July until August 22, 2008. A hard copy of the document and response booklet was also available by contacting the call centre toll-free line. In addition the consultants informed participants in the stakeholder interviews of the availability of the discussion paper for comment.

Because of a technical problem with electronic responses in late July and early August the original deadline was extended until 12 September. Additional newspaper advertising made the public aware of this extension.

A total of 33 responses were received with 12 of these submitted by organizations and the remaining 21 submitted as individuals with 10 of these from condominium owners. Of the remaining 11 several were from individuals with an interest in this subject rather than from individual homeowners. These included a lawyer and an engineer among others, responding as individuals rather than as representatives of a business or organization.

In tables A4.1 and A4.2 below we have summarized responses to the proposals made in the discussion paper by organizations and by individuals. The proposal numbers referenced are those of the discussion paper; a similar numbering system has been used in this paper for the recommendations of Section 2.

### A4.1 Summary of responses from organized stakeholder groups

Proposal	Organization Responses
Proposal #1 Trades licensing	The general conclusion is that the licensing of all trades is a long-term measure that is not likely to have a significant impact on quality of construction, but should be implemented over time. There is some caution about the potential negative impact that such action could have on the supply of trades at a time of growing demand.
Proposal #2 Builder registration	Registration is seen as an essential component of any protection regime, and it is also seen as an important resource for individuals to research the past record of any builder.
Proposal #3 Greater protection for Single Family homes	Comments focused on the need for a better understanding of the role of inspectors but few felt any new measures were required here.
Proposal #4 Letters of Undertaking	There was strong support for strengthening the LOU process and ensuring that professionals met their obligations. Independent 3 <sup>rd</sup> party review was urged.
Proposal #5 Mandatory inspection	There was strong support for increased inspection by independent 3 <sup>rd</sup> party specialists, especially for water penetration of condominiums. Suggestions were made that we needed to return to the independent inspection process that formerly existed under CMHC.
Proposal #6 Mandatory warranty	Mandatory warranty was seen as a positive step with the reservation that the small size of the market might be a serious barrier to actioning.

Proposal #6 Financial collateral	There was no support for this option.
Proposal #7 Deposit protection	Unanimous agreement that all deposits should be held in trust.
Proposal #8 Increased buyer education	All respondents saw this as a positive step toward enhancing new homeowner protection.
How to deliver protection	Although several respondents commented that they did not support the creation of an Office of Home Protection, no respondents offered suggestions on how protection should be delivered.
Other comments	Areas of interest included comments around enhancing the enforcement process and ensuring only qualified professionals had responsibility for work appropriate to their profession

## A4.2 Summary of responses from individual home owners

Proposal	Individual Responses
Proposal #1 Trades licensing	In contrast to the organizational responses, individuals thought this was a good idea that would quickly lead to higher standards
Proposal #2 Builder registration	A mixed response with the majority in favour of builder registration as a way to track past performance.
Proposal #3 Greater protection for Single Family homes	Limited support of the need for greater protection with the suggestion of the creation of an ombudsman role.
Proposal #4 Letters of Undertaking	A mixed response with many making no comment. Those in favour wanted increased responsibility and monitoring by the professions.
Proposal #5 Mandatory inspection	Strongly supported with several noting it was crucial.
Proposal #6 Mandatory warranty	Again this recommendation was strongly supported.
Proposal #6 Financial collateral	Support was mixed with comments about the need for security or holdbacks that forced the builder to comply with required repairs.
Proposal #7 Deposit protection	Unanimous agreement that all deposits should be held in trust.
Proposal #8 Increased buyer education	All respondents saw this as a positive step toward enhancing new homeowner protection.
How to deliver protection	Individuals almost all made no comment on this issue.
Other comments	Asked for government inspection of condominiums and some mechanism be established to allow buyers to oversee construction of

condominiums.
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We have evaluated all of the feedback received and given consideration to these findings in this final report and recommendations. The consultants would like to acknowledge the contribution of those organizations and individuals who provided feedback to the discussion paper, in some cases very extensive. The general consistency of findings was noted, as well as the alignment of most of the views and recommendations with those proposed in the original discussion paper.

## A5 A Comparison of Homeowner Protection & New Home Warranty Programs across Canada

### A5.1 Non Profit Programs

Province & approach	Participation	Warranty provider	Protections offered/ Other issues	Costs
<p><b>British Columbia</b></p> <p>Homeowner Protection Office, a provincial Crown Corporation</p> <p><a href="http://www.hpo.bc.ca">www.hpo.bc.ca</a></p> <p>-Establishes regulatory framework</p> <p>-Sponsors builder education programs</p> <p>-Provides consumer education materials</p>	<p>Mandatory registration &amp; third party home warranty insurance for builders and building envelope renovators</p> <p>Owner/builders must obtain authorization but not required to be licensed or obtain 3<sup>rd</sup> party home warranty coverage.</p>	<p>Companies authorized by FICOM:</p> <p>--Lombard General Insurance Co</p> <p>-Royal &amp; Sun Alliance (represented by National Home Warranty Programs</p> <p>-Travelers Guarantee Co.</p>	<p>New home:</p> <p>1 yr – defects in materials, design &amp; labour</p> <p>2 yr – defect in materials &amp; labour for M&amp;E systems &amp; exterior cladding, etc.</p> <p>5 yr – defects in building envelope permitting water penetration</p> <p>10 yrs – failures in load bearing part of home</p> <p><b>Other issues:</b></p> <p>-system to develop minimum qualifications for licenses in development</p> <p>-builders cannot obtain a building permit from a municipality without proof of license &amp; warranty</p> <p>-Ministry of Public Safety &amp; Solicitor General is considering proposals for a regulatory framework for home inspectors</p>	<p>Licensing:</p> <p>-\$600 + \$40/unit when constructed</p> <p>-Annual renewal fees - \$500 + \$40/unit</p> <p>\$750/unit reconstruction fee to finance leaky condos in coastal climate zone</p> <p>Home Warranty insurance:</p> <p>Premiums established based on risk assessment</p>

<p><b>Alberta</b></p> <p>Non-profit corporation formed by building industry</p> <p>Governance reform underway to develop more arms-length approach from industry</p>	<p>Voluntary</p> <p>-Once enrolled, there are mandatory requirements</p> <p>-Cover 85% of new homes and 50-60% of multi family projects in Alberta</p>	<p>Alberta New Home Warranty Program (ANHWP)</p> <p><a href="http://www.anhwp.com">www.anhwp.com</a></p>	<p>Builders must provide personal guarantees, letters of credit &amp; other security instruments. Warranties include:</p> <ul style="list-style-type: none"> <li>-Deposit protection to a max of \$60,000</li> <li>-Builder Performance protection up to \$30,000</li> <li>-Materials &amp; workmanship up to \$60,000 during first year</li> <li>-Structural integrity, unused portion of \$60,000 for five years</li> <li>-Additional living expenses up to \$60,000 while warranty work is underway</li> </ul> <p><b>Other issues:</b> Service Alberta have started a consultation process re licensing home inspectors</p>	<p>Builder registration: \$1000</p> <p>Home enrollment fees: \$90 to \$885 based on purchase price &amp; builder rating (average fee in 2005, \$316)</p> <p>-ANHWP has a strong focus on builder education and consumer awareness and satisfaction</p>
<p><b>Saskatchewan</b></p> <p>Non profit corporation formed by the building industry</p>	<p>Voluntary</p> <p>Does not cover condo complexes of over four stories</p>	<p>New Home Warranty Program of Saskatchewan</p> <p><a href="http://www.nhwp.org">www.nhwp.org</a></p>	<p>Deposit protection up to \$25,000</p> <ul style="list-style-type: none"> <li>1 yr – workmanship &amp; materials</li> <li>2 yrs – water leak protection</li> <li>5 yrs – major structural defects</li> </ul> <p>Total combined limit: \$75,000</p> <p>Condo projects have an overall maximum coverage of \$500,000 between Jan 1-98 to Dec 31-07. All condo projects enrolled on or after Jan 1-08, have a maximum coverage of \$750,000.</p>	<p>Builder registration \$525; \$280 annual renewal</p> <p>Letter of Credit required as security for warranty, minimum \$16000</p> <p>Home enrollment: \$661-\$871 per unit</p>
<p><b>Manitoba</b></p> <p>Non profit organization formed by building industry</p>	<p>Voluntary</p> <p>Does not cover condo complexes of over three stories.</p>	<p>Manitoba New Home Warranty Program</p> <p><a href="http://www.mbnhwp.com">www.mbnhwp.com</a></p>	<p>Five year warranty</p> <ul style="list-style-type: none"> <li>Yr1 – materials &amp; workmanship up to \$30,000/unit</li> <li>Yr 1-5 – major structural defects affecting load bearing portion up to \$30,000/unit; relocation expense up to \$3000</li> </ul> <p>Deposit coverage up to \$10000</p>	<p>Builder registration: \$500; renewal \$175</p> <p>Home enrollment \$150-\$460</p>

			<p>Claims must be made within one year of taking possession of the home.</p> <p><b>Other issues:</b></p> <p>-Manitoba government is undertaking a review of options for protection of condo owners; considering the BC approach where insurers offer the warranty coverage. Cost of the warranty could be in the \$1000/unit range.</p>	
<p><b>Ontario</b></p> <p>Private non profit corporation created by government to administer the <i>Ontario New Home Warranties Plan Act</i></p>	<p>Mandatory</p> <p>Builder registration is mandatory as well; Tarion will cover homes where builder failed to register.</p>	<p>Tarion Warranty Corp</p> <p>Three roles:</p> <ul style="list-style-type: none"> <li>-Regulator</li> <li>-Surety</li> <li>-Conciliator/ adjudicator</li> </ul> <p><a href="http://www.tarion.com">www.tarion.com</a></p>	<p>Limit on coverage - \$300,000</p> <p>1 yr – free from defects in work &amp; materials; fit to live in and constructed in accordance with Bldg Code</p> <p>2 yr- bldg envelope including water penetration</p> <p>7 yr – major structural defects</p> <p>No substitution of materials without consent</p> <p>Delayed closing &amp; occupancy w/o adequate notice – max \$5000</p> <p>Deposit protection – to \$40,000</p>	<p>Registration fee: \$600</p> <p>Home enrollment fee \$325-\$750 (based on value of home)</p>
<p><b>Quebec</b></p> <p>3 private providers supervised by Régie du batiment du Quebec who administer the provincially legislated Guarantee Plan</p>	<p>Mandatory</p> <p>Not covered: condos of over four stories constructed of non-combustible material</p>	<ul style="list-style-type: none"> <li>-La Garantie des maison neuves de l'apchq</li> <li>-Qualité habitation</li> <li>-La garantie des mâtres bâtisseurs</li> </ul> <p><a href="http://www.gomaison.com">www.gomaison.com</a></p>	<p>Deposit protection - \$30,000</p> <p>Delayed closing &amp; occupancy - \$5000</p> <p>1 yr – existing but not apparent defects</p> <p>3 yrs – hidden defects</p> <p>5 yrs – faulty design, construction or production and foundation problems</p>	<p>Builder registration: \$375; renewal \$325</p> <p>Home enrollment: \$800-\$1100</p> <p>Mandatory pre-delivery inspection by purchaser</p>
<p><b>Atlantic</b></p> <p>Non profit organization started by building industry</p>	<p>Voluntary</p> <p>Largely cover single family dwellings but will provide warranties for</p>	<p>Atlantic Home Warranty Program</p>	<p>For homes purchased after 2007:</p> <p>Deposit protection to \$20,000</p> <p>1 yr – defects in workmanship or materials</p>	<p>Builder registration - \$600; renewal \$200</p> <p>Home enrollment - \$330 - \$510</p>

	condo projects	<a href="http://www.ahwp.org">www.ahwp.org</a>	<p>7 yrs – major structural defect, including soil movement, which results in actual physical damage to, and failure of, a load-bearing portion of the home.</p> <p>Limit: \$50,000</p> <p>For homes purchased before 2007:</p> <p>Platinum – as above</p> <p>Ultimate – 10 yrs on structural defect</p> <p>Ultimate plus – additional \$3000 for specified items</p>	<p>Condos:</p> <p>Unit fee \$600 - \$1200 + security of \$100,000 (through performance bond, line of credit or cash)</p>
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## A5.2 For Profit Warranty Programs

Province	Warranty Provider	Protections offered/ Other issues
<i>Atlantic</i>	<p>Lux Residential Warranty Program</p> <p><a href="http://www.luxrwp.com">www.luxrwp.com</a></p>	<p>New homes:</p> <ul style="list-style-type: none"> <li>-1 yr, materials &amp; workmanship up to \$35,000</li> <li>-1-8 yrs, major structural up to \$3,5000</li> <li>-Total together cannot exceed \$35,000</li> <li>-\$3500 available for relocation expenses</li> <li>-Foundation water penetration limited warranty (if prescribed materials are used)</li> </ul> <p>Condominiums:</p> <ul style="list-style-type: none"> <li>-1 year materials and labour</li> <li>-5 years structural defects</li> <li>-\$35,000 structural defects per unit</li> <li>-\$3,500 additional living expenses coverage</li> </ul>

		<ul style="list-style-type: none"> <li>-common property limit of up to \$500,000</li> <li>-deposit protection max. \$30,000</li> </ul>
<b>British Columbia, Alberta, Manitoba, Saskatchewan</b>	<p>National Home Warranty Programs Ltd. (backed by Royal &amp; Sun Insurance Co)</p> <p><a href="http://www.nationalhomewarranty.com">www.nationalhomewarranty.com</a></p>	<p>Coverage varies according to province.</p> <p>New homes and condominiums are eligible for coverage.</p>
<b>British Columbia, Alberta, Manitoba, Saskatchewan. Atlantic Provinces</b>	<p>Pacific Home Warranty Solutions, Inc. (BC) and Progressive Home Warranty Solutions, Inc. (remainder);</p> <p>Backed by Echelon General Insurance</p> <p><a href="http://www.progwar.com">www.progwar.com</a></p>	<p>New homes:</p> <ul style="list-style-type: none"> <li>-1 Year Materials &amp; Labour</li> <li>- 2 Year Mechanical Systems</li> <li>-5 Year Foundation Water Penetration</li> <li>- 10 Year Structural Defect</li> <li>-\$25,000 Deposit Security</li> <li>-\$6,000 Add'l Living Expense Coverage</li> <li>- \$100,000 Total Warranty <b>Limit</b></li> </ul> <p><b>Manufactured homes:</b></p> <ul style="list-style-type: none"> <li>-1 Year Materials &amp; Labour</li> <li>- 2 Year Mechanical Systems</li> <li>-10 Year Structural Defects</li> <li>-\$25,000 Deposit Security</li> <li>- \$30,000 Total Warranty Limit</li> </ul> <p>Condominiums:</p> <ul style="list-style-type: none"> <li>-1 Year Material &amp; Labour</li> <li>-2 Year Mechanical Systems</li> <li>- 5 Year Foundation Water Penetration</li> <li>- 10 Year, \$60,000 Structural Defects</li> <li>-\$25,000 Deposit Security</li> <li>-\$5,000 Add'l Living Expenses Coverage</li> <li>- \$500,000 per Building Limit</li> </ul>

## **A6 Licensing requirements for NS construction trades**

A designated trade is one which is regulated by the Nova Scotia Apprenticeship and Trades Qualifications Act and General Regulations. This Act provides for formal training and the issuance of Certificates of Qualification for trades that have been designated. Certification in a designated trade demonstrates proof of a person's qualifications to work in a specific trade to a provincial or a national standard.

Of the 61 apprenticeable trades administered by the Nova Scotia Department of Labour and Workforce Development, there are 9 that are called "compulsory". That means that one must have a Certificate of Qualification (often called "licences") in order to legally work in this field in Nova Scotia. The 9 compulsory occupations include 6 that work in the construction industry:

- Bricklayer
- Construction Electrician
- Plumber
- Refrigeration and Air Conditioning Mechanic
- Oil Burner Mechanic
- Sprinkler System Installer