

Committee of the Whole Report

DATE: Tuesday, June 04, 2019

WARD(S): ALL

**TITLE: EARLY TERMINATION OF PRE-CONSTRUCTION
CONDOMINIUM PROJECTS**

FROM:

Wendy Law, City Solicitor

ACTION: FOR INFORMATION

Purpose

To advise the Committee of the Whole as to the Ontario Ministry of Government and Consumer Services (the “**Ministry**”) response to the City of Vaughan’s inquiry regarding pre-construction condominiums and the feasibility of a multi-provider insurance model for new home warranties and protections.

Report Highlights

- At the Council meeting of April 11, 2018, staff were directed to request the Ministry to review the process by which pre-construction condominium projects are marketed and sold as well as the ability of developers to terminate agreements of purchase and sale as a result of the cancellation of a condominium project.
- The Ministry advised that it is working to address the issues surrounding the cancellation of condo projects and its effects on homebuyers.
- The Ministry has asked TARION to initiate consumer protection enhancements within the next six (6) months to better inform and protect purchasers of cancelled condo projects.
- The Ministry has asked TARION to make changes to its addenda to agreements of purchase and sale for condo buyers within the next twelve (12) months to enhance disclosures for consumers about the risks of purchasing pre-construction condos.

Recommendation

1. That this report be received for information.

Background

At the Council meeting of April 11, 2018, staff were directed, by way of a member's resolution, to:

1. Formally request the Ministry to review the:
 - a) process by which pre-construction condominium projects are marketed and sold; and
 - b) the ability of developers to terminate agreements of purchase and sale as a result of the cancellation of a condominium project.
2. Contact TARION in respect of its role in this matter and report back to Committee of the Whole in May 2018.

On May 23, 2018, staff reported back to Council (Item 22, Report No. 18, of the Committee of the Whole) in respect of TARION's role in connection with inquiries concerning the marketing, presale and cancelation of pre-construction condominium projects, and informed Council that:

- TARION confirmed that agreements of purchase and sale for new homes typically contain early termination provisions (related to, among other things, financing and building/zoning permits) in favour of vendors; along with requirements respecting the return of deposits to purchasers.
- While TARION has the power to conduct investigations of vendors/builders, it does not have the power to compel vendors to waive their rights under early termination conditions or to complete a project.

In addition, staff informed Council that a formal written request to the Ministry to review the legislation governing the marketing, presale and cancelation of pre-construction condominium projects was being drafted and would be delivered to the Ministry forthwith.

Previous Reports/Authority

1. [Item 22, Rpt 18 CW May 23, 2018 Early Termination of Pre-Construction Condominium Projects](#)

Analysis and Options

Staff contacted the Ministry about pre-construction condominiums and the feasibility of a multi-provider insurance model for new home warranties and protections.

On May 3, 2019, by letter to the City of Vaughan [Attachment 1], the Ministry advised that it is working to address the issues surrounding the cancellation of condo projects and the effects on homebuyers.

The Ministry has asked TARION to act within prescribed timelines to enhance customer protection, better inform, and protect purchasers of cancelled condo projects, as follows:

Within six (6) months:

- update Tarion's Ontario Builder Directory to include information about developers with a history of condo project cancellations, expected to be done sometime around the end of the summer;
- develop options to require developers to post information about their condominium development projects on their websites (e.g., information about outstanding approvals or other matters that could cause a project to get cancelled);
- work with the Condominium Authority of Ontario to educate prospective buyers about the condo purchase process; and
- improve information collection on new pre-construction condo projects.

Within twelve (12) months:

- make changes to its addenda to agreements of purchase and sale for condo buyers to enhance disclosures for consumers about the risks of purchasing pre-construction condos, including matters that could cause a project to get cancelled, such as outstanding approvals, project financing or restrictive covenants on title.

Financial Impact

There is no financial impact in respect of staff communications with the Ministry about pre-construction condominium and termination of agreements of purchase and sale as a result of the cancellation of a condominium project.

Broader Regional Impacts/Considerations

There are no Regional issues directly at stake.

Conclusion

Staff contacted the Ministry about pre-construction condominiums and the feasibility of a multi-provider insurance model for new home warranties and protections. The Ministry is working to address the issues surrounding the cancellation of condo projects and its effects on homebuyers. The Ministry has asked TARION to initiate consumer protection enhancements to better inform and protect purchasers of cancelled condo projects, and to make changes to its addenda to agreements of purchase and sale for condo buyers to enhance disclosures for consumers about the risks of purchasing pre-construction condos.

Attachment

1. Ontario Ministry of Government and Consumer Services' letter of May 3, 2019.

Prepared by

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