

Disclosure ordered for 'pre-sale' developers

Rules call for buyers to get more information on agreement provisions

Bruce Constantineau

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The B.C. Financial Institutions Commission has ordered developers to provide increased disclosure to buyers of "pre-sale" condominiums which have yet to be built.

The new measures, to take effect Nov. 1, follow the controversial cancelling of 32 pre-sale contracts this year on the Riverbend project in Coquitlam.

The developer -- CB Development 2000 Ltd. -- claimed rising construction costs outstripped sale prices and would have forced massive losses if the sales were completed.

The disclosure rules force developers to explain any provisions for terminating, extending or assigning purchase agreements. Buyers will be required to initial the cover page of disclosure statements to confirm the provisions were drawn to their attention.

Pertinent information must also appear in "conspicuous type" on the statement's cover page.

THE RULES ALSO PROVIDE FOR MORE DISCLOSURE OF DEVELOPERS' BACKGROUND, INCLUDING:

- Their experience in the development industry.
- Whether they have been bankrupt in the past five years or been disciplined in the past 10 years for matters relating to real estate, mortgages of land, securities, theft or fraud.
- Whether any conflict of interest exists that could affect a buyer's purchase decision.

Failure to comply with the disclosure requirements could result in the issuance of cease-marketing orders or "administrative penalties" of up to \$50,000.

Greater Vancouver Home Builders chief executive officer Peter Simpson welcomes the new disclosure rules.

"If there's something in a developer's background -- like he went bankrupt or committed fraud in the past -- what's wrong with making that public?" he said in an interview.

"It just makes more information available to home buyers so they can make an informed decision It's important they know there's a slight potential for something to go wrong."

But Simpson said home buyers also have to take responsibility for their own actions, noting many buyers never even read the details of long purchase contracts. He said condo buyers in lineups often get caught up in the excitement of the moment and can feel pressured to buy on the spot.

"Once that excitement and emotion passes, you need to step back and take that purchase contract to a lawyer to have them review it," Simpson said. "If there's anything that appears to be problematic, you can deal with it or just walk away from the contract if you're not satisfied."

Home buyers in B.C. have a seven-day right of rescision, which allows them to rescind a purchase agreement for any reason within seven days.

Vancouver lawyer Brian MacKay said giving buyers more information about pre-sale projects is probably the best solution available now.

"Inexperienced developers will have more trouble selling to knowledgeable purchasers because they'll be wary of prices that seem too low or too good a deal," said MacKay, with Davis LLP. "Purchasers will know there's a substantial risk in today's climate that the product might not be delivered."

bconstantineau@png.canwest.com

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