

REGISTRAR INTERPRETATION BULLETIN

July 2015

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BUILDING ASSESSMENT REPORT QUALIFIED PERSON

PURPOSE

The purpose of this bulletin is to provide further information on the provision outlined under 4 (5), (6) and (7) of the NHBPA where, upon application to the Registrar, a residential home builder may request an exemption for the qualified person as defined under s. 1(1)(f) of the New Home Buyer Protection (General) Regulation to prepare the BAR.

RELEVANT SECTIONS OF LEGISLATION

- Section 1.1(2) in the *New Home Buyer Protection Act*, which states

Subject to subsection (5), the protection period in the case of common property or common facilities in a building is the 10-year period beginning when

- (a) the title to an inhabitable unit in the building or in a building in a phase of development of a condominium is transferred from a residential builder to a purchaser of a unit in an arm's length transaction, and
 - (b) the residential builder has entered into an agreement with a qualified person to have the qualified person prepare a building assessment report for the building or for the phase of development within 180 days of the transfer of title described in clause (a).
- Sections 4(2),(5),(6) and (7) in the *New Home Buyer Protection (General) Regulation*

DISCUSSION

Under the *New Home Buyer Protection Act* and the regulations, there is no exemption from the requirement to prepare a BAR.

1. Application for Exemption to have a qualified person prepare the BAR (section 4(5) of the New Home Buyer Protection (General) Regulation)

The Registrar may grant a residential builder an exemption from the requirements in section 4(1) if there is no delivery and distribution system or mechanical system that serves two or more units in or for a condominium building (New Home Buyer Protection General Regulation 4(6)).

- Generally in a condominium building of this type each unit is individually served and metered for its delivery and distribution systems and the delivery and distribution systems are under the care and control of the owner of the unit.

To be granted an exemption under section 4(5), the builder should:

- Provide a description of the individual preparing the BAR, including contact information, relevant designations and memberships in professional organizations/associations, for each building or each phase of the development.
- Demonstrate that the individual proposed to prepare the BAR has the appropriate competencies and relevant skills in their specific discipline to prepare the BAR.
- Demonstrate that the individual proposed to prepare the BAR has a level of accountability and independence equivalent to a “qualified person” as defined in the legislation.
- Demonstrate that there is no delivery and distribution system or mechanical system that serves two or more units in or for a condominium building that is the subject of this BAR.
 - o A signed declaration by the residential builder or a signed letter from the qualified person that declares that there is no delivery and distribution system or mechanical system that serves two or more units in a specific building is acceptable. Residential builders should retain plans and documentation for audit and compliance purposes.

The individual preparing the BAR under this exemption can be, but is not limited to, a certified individual in a self-regulated profession, in a discipline relevant to the content of the BAR, such as a Certified Technician and Certified Engineering Technologist or equivalent.

The Registrar may impose additional terms and conditions on any exemption granted under section 4(5) of the *New Home Buyer Protection (General) Regulation*.

An exemption granted under section 4(5) of the *New Home Buyer Protection (General) Regulation* is only applicable for the building or phase of development named in the application. A new application for exemption from section 4(1) will be required for each new building or phase of development that requires a BAR.

2. Buildings Constructed Without Professional Involvement

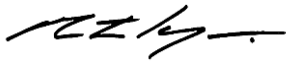
A BAR must be prepared for all condominiums which have common property and common facilities including condominiums which are built *without* professional involvement under Part 9 of the Alberta Building Code.

Part 9 buildings may have minimal common property or there may not be any common property which fits the scope for the BAR (*New Home Buyer Protection General Regulation 4(2)*)

1. Where the residential builder demonstrates that there is no delivery and distribution system or mechanical system that serves two or more units in or for a condominium building that is the subject of the BAR, the builder may apply for an exemption for the qualified person preparing the BAR (See 1 in this document)

2. Where the residential builder demonstrates that none of the items identified in 4(2) of the New Home Buyer Protection General Regulation are included in common property or service two or more units then the BAR is not required.
 - a. A signed declaration by the residential builder or a signed letter from a qualified person that declares there is no delivery and distribution system, mechanical system, building envelope, surface water drainage system or load-bearing parts that serve two or more units in a specific building or are registered on the condo plan would be acceptable. Residential builders should retain plans and documentation for audit and compliance purposes.

Issue of this Registrar's Interpretation Bulletin is authorized by the Registrar.



Monte Krueger

July 9, 2015

Date