

REGISTRAR INTERPRETATION BULLETIN

March 2014

Number 2

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RECONSTRUCTION

DISCUSSION

The purpose of this bulletin is to provide clarification on how to determine if a change, addition, alteration or repair to a building intended for residential occupancy will be considered as a reconstruction and be subject to the requirements in the *New Home Buyer Protection Act (NHBPA)* and its Regulations to obtain the required home warranty coverage.

Home warranty coverage under the *NHBPA* is required on new homes built after February 1, 2014.

Section 1(1)(s)(iv) of the *NHBPA* describes a new home as a building, or portion of a building that is newly constructed or that is being constructed and is intended for residential occupancy and in respect of which the purchase period has not expired, and includes a building that is intended for residential occupancy and that is a reconstruction.

DEFINED TERMS

The words and terms in italics in this Bulletin have the following meanings that are specific to this Bulletin only.

Reconstruction means where a change, addition, alteration, or repair to a building that is intended for residential occupancy results in 75% of the enclosed square footage of the building above the foundation at the completion of the change, alteration or repair to be new as defined under section 1(7) of the New Home Buyer Protection General Regulation.

A change, addition, alteration or repair to a building's surfaces, fixtures or decorations is not considered a reconstruction under the *NHBPA* or its Regulations.

Secondary suite means a second, self-contained dwelling unit that is located within a single dwelling unit where both dwelling units are registered under the same land title.

1. Determination of a Reconstruction under the *NHBPA* and its Regulations

To determine if the change, addition, alteration or repair to a home qualifies as a reconstruction:

- Obtain the threshold. Multiply the new **total** proposed enclosed square footage by the legislated threshold of 75%.
- Obtain how much square footage is new. Subtract the old square footage from the new square footage of the home.

If the newly built square footage is **equal or greater** than the calculated threshold, the home is considered a reconstruction.

If the newly built square footage is **less than** the calculated threshold, the home is not considered a reconstruction.

The following examples illustrate how a reconstruction is determined under the *NHBPA* and its Regulations.

Example A: Addition to a pre-existing home

Prior to a change, addition, alteration or repair, a single-family dwelling had an enclosed square footage of 1000 square feet (figure 1). After the change, addition, alteration or repair, the enclosed square footage for the single-family dwelling is 4000 square feet (figure 2).

The home would be considered a reconstruction since the amount of the enclosed square footage that is new (3000 sq. ft.) is equal or greater to the threshold (75% of the 4000 sq. ft.).

Figure 1
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)

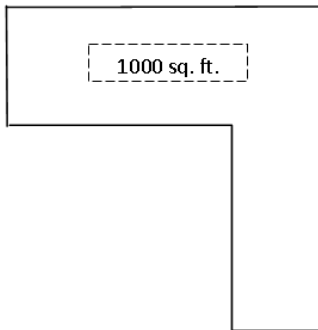
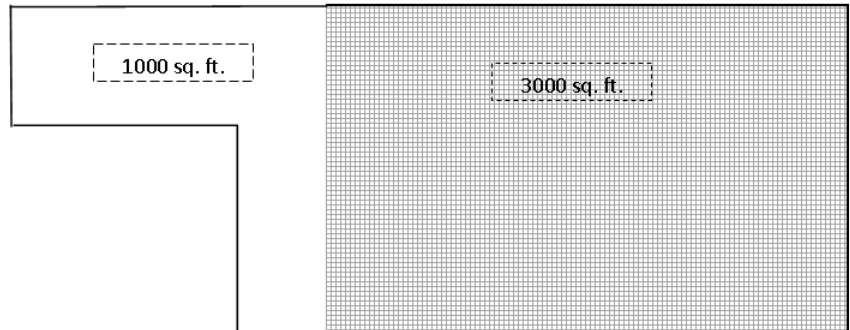


Figure 2
Enclosed square footage: 4000 square feet
(Figures not drawn to scale)



Example B: Addition to a pre-existing home

Prior to a change, addition, alteration, repair, a single-family dwelling had an enclosed square footage of 1000 sq. ft. (figure 3). After the change, addition, alteration or repair, the single-family dwelling has an enclosed square footage of 2000 sq. ft. (figure 4).

The home would not be considered a reconstruction since the amount of the enclosed square footage that is new (1000sq. ft.) is less than the threshold (75% of 2000sq. ft.).

Figure 3
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)

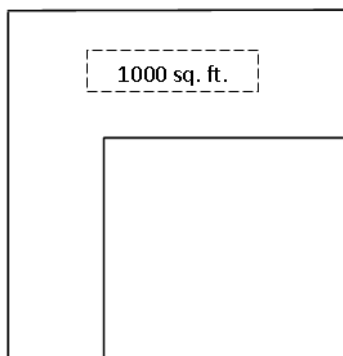
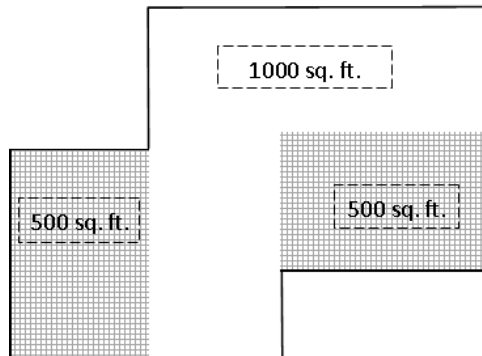


Figure 4
Enclosed square footage: 2000 square feet
(Figures not drawn to scale)



Example C: A change, addition, alteration or repair to a building's surfaces, fixtures or decorations

Prior to a change, addition, alteration, or repair, a single-family dwelling had an enclosed square footage of 1000 sq. ft. (figure 5). After the change, addition, alteration or repair to the building's surface such as the flooring, the single-family dwelling has an enclosed square footage of 1000 sq. ft. (figure 6).

Since a change to the home building's surface, fixture or decoration is not considered a reconstruction under the *NHBPA* or its Regulations, this home would not be considered a reconstruction.

Figure 5
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)

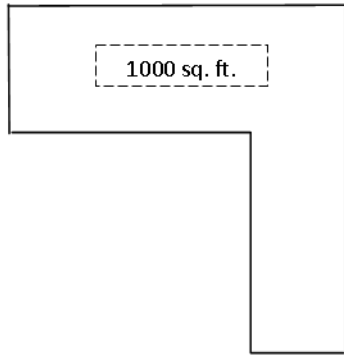
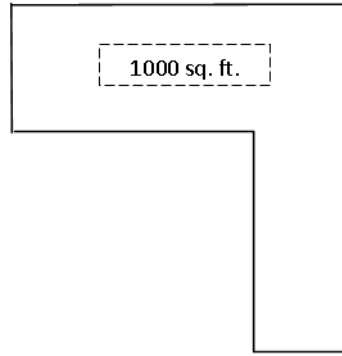


Figure 6
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)



Example D: The original foundation remains, but change, addition, alteration or repair results in the structure above the foundation as being new (i.e. re-build after fire).

Prior to a change, addition, alteration, or repair, a single-family dwelling had an enclosed square footage of 1000 sq. ft. (figure 7). The home is destroyed by a fire, requiring the rebuilding of the home on the old foundation. After the change, addition, alteration or repair, the single-family dwelling has an enclosed square footage of 1000 sq. ft. (figure 8).

Since at least 75% of the structure above the foundation is new, the home would be considered a reconstruction.

Figure 7
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)

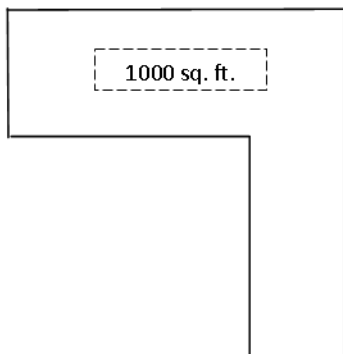
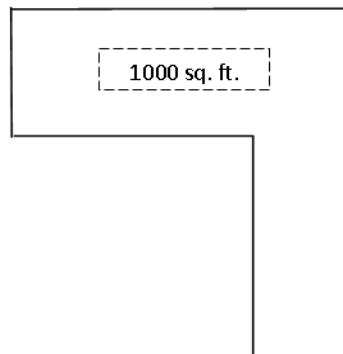


Figure 8
Enclosed square footage: 1000 square feet
(Figures not drawn to scale)



2. Pre-existing home divided into additional dwelling units

Under the *NHBPA*, a pre-existing home built prior to February 1, 2014, would not be required to obtain the required home warranty coverage.

In cases where a change, addition, alteration or repair to a pre-existing home leads to a single-family dwelling to be divided into additional dwelling units, the required home warranty under the *NHBPA* and its Regulations may be applicable.

However, renovations that include internal changes to walls and building code upgrades alone may not cause the home to be subject to the home warranty requirements in the *NHBPA* and its Regulations.

When a change to a pre-existing home is made, the following should be considered in the determination of whether the change creates an additional dwelling unit(s) that is subject to *NHBPA* and its Regulations.

Does the change to a pre-existing home:

- create a legal secondary suite? See section 3 for further details.
- result in 75% or more of the enclosed square footage above the foundation to be new?
- double the footprint of the original home to create an additional unit such as a duplex or triplex dwelling?
- require a second land title?

If the new dwelling unit is built on the new footprint, it would be considered a new home and would be subject to the home warranty requirements under the *NHBPA* and its Regulations.

3. Secondary suites

Secondary suites are self-contained living units created within single-family homes. These suites include a kitchen, bathroom and a separate entrance, and provide Albertans with an affordable housing option.

If the construction of a secondary suite within an existing home results in the enclosed square footage of the home to be 75% new, the home will be considered a reconstruction and the residential builder will be required to obtain home warranty.

A change, addition, alteration or repair to an existing secondary suite or an existing basement that is developed into a secondary suite, that does not result in the enclosed square footage of the home to be 75% new, is not considered a reconstruction under the *NHBPA* and its Regulations.

For more information on Secondary Suites, please contact Municipal Affairs Safety Services Branch toll-free at 1-866-421-6929.

4. Historical Buildings

Heritage buildings that are renovated to convert the use of a historical building from commercial purposes to residential use are not considered a reconstruction under the *NHBPA*.

The Home Warranty Insurance Regulation allows for permitted coverage exclusions.

Section 6(h) states that any component of a Registered Historic Resource or Provincial Historic Resources that is being converted from commercial to residential use, where that component has been exempted from the application of any provision contained in any building code pursuant to section 51 of the *Historical Resource Act*.

For more information on the application of the Alberta Building Codes to Historical buildings, please contact Municipal Affairs Safety Services Branch toll-free at 1-866-421-6929.

5A. Home warranty coverage requirements for a new home prescribed as a reconstruction

The *NHBPA* requires that a residential builder, who is a person that engages in, manages or arranges the substantial construction or reconstruction of new homes after February 1, 2014, to obtain required home warranty coverage that meets the requirements under section 3(6) of the *NHBPA* from a third party warranty provider.

The minimum home warranty insurance contract must provide coverage for:

- one year of defects in materials and labour
- two years for materials and labour related to delivery and distribution systems
- five years for defects related to building envelope
- 10 years for structural defects

5B. Home warranty coverage on sections of the home that are retained or not part of the reconstruction

If a change, addition, alteration or repair completed after February 1, 2014 results in at least 75% of the enclosed square footage above the foundation being new, home warranty insurance is required on the entire home under the *NHBPA*.

6. Owner-builders

An individual, who has received owner-builder authorization by the Registrar, that makes a change, addition, alteration, or repair to their own personal home, may not be required to obtain the required home warranty coverage.

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



Diane McLean

March 7, 2014

Date