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# REGISTRAR INTERPRETATION BULLETIN

## Residential Protection Program

### Repeal of Building Assessment Report Requirements

Number 8. Date Issued: July 2021

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#### Purpose

To provide information on the repeal of the Building Assessment Report (BAR) requirements for common property of a condominium under the *New Home Buyer Protection Act (NHBPA)*.

#### Discussion

##### Intent of the BAR

A Building Assessment Report (BAR) is a technical report commissioned by the builder and created by a qualified professional that describes the systems of condominium buildings and identifies deficiencies in or damage to the various common property, systems and structural parts. The BAR had been required to be prepared within 180 days of the transfer of title of the first unit sold.

##### Application of the BAR

In practice, the BAR has had limited success in informing warranty claims and is duplicative of reports required under the *Safety Codes Act* during construction. Due to its technical nature and the timing of its delivery, the BAR is limited in supporting the submission and/or assessment of warranty claims on common properties. While the BAR increased the costs of new condominiums, it provided limited value in supporting consumers.

##### Impacts of the repeal of the BAR

The removal of the BAR requirements will not compromise construction quality or new home warranty coverage. Permits, inspections, and new home warranty policies remain in place to ensure condominiums are safe and owners are protected. This change will reduce the cost of building condominiums and reduce red tape. BARs are not required in other provinces, where condominium corporations commission a third party technical audit to identify defects in the common property for submission in a warranty claim.

##### In-force date for the repealing of the BAR

These changes to the *NHBPA* and associated regulations will come into force on July 1, 2021, and go into effect for all condominium projects being constructed, regardless of where they are in the building process. Following July 1, 2021, a BAR **will not** be required under the *NHBPA*. A BAR may still be required by warranty providers and other private companies as per their own contractual agreements.

##### Warranty for common property

Warranty coverage for condominiums **will not** be impacted by the repeal of BAR requirements under the *NHBPA*. Condominiums and common property continue to have mandatory warranty coverage.

Effective July 1, 2021, amendments to Section 1.1(2) and 4 (2.1) of the *NHBPA* will specify that warranty will commence when the title is transferred from the residential builder to the purchaser of the unit and will no longer be based off the receipt of the BAR or within 180 days of the transfer of title.

### Outdated program documents

This Registrar's Interpretation Bulletin replaces the three documents listed below, which are no longer in effect as of July 1, 2021.

Registrar's Interpretation Bulletin Number 5 (July 2015) – BUILDING ASSESSMENT REPORT INTENTION AND PURPOSE

Registrar's Interpretation Bulletin Number 7 (July 2015) – BUILDING ASSESSMENT REPORT QUALIFIED PERSON

Appendix 1 – BUILDING ASSESSMENT REPORTS FREQUENTLY ASKED QUESTIONS

### Relevant Sections of Legislation (to be repealed effective July 1, 2021)

- Section 1.1(2) in the *NHBPA*:

*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).*

- Section 4(2.1) in the *NHBPA*:

*Subject to subsection (2), with respect to the common property or common facilities in a building or a phase of development, "the date the protection period begins" means the date that is 180 days after the transfer of title described in section 1.1(2)(a).*

- Section 28(1)(e) in the *NHBPA*:

*Subject to subsection 28(1) (e), respecting building assessment reports required by section 1.1(2), including but not limited to regulations respecting*

- (I) assigning responsibility for building assessment reports;*
- (II) any assessments or inspections that must be completed for inclusion in building assessment reports;*
- (III) any information that must be included in the building assessment reports;*
- (IV) the form of building assessment reports;*
- (V) the qualifications persons who complete building assessment reports must hold;*
- (VI) timelines are complete and submission of building assessment reports;*
- (VII) persons to whom building assessment reports must be submitted;*
- (VIII) powers of person preparing building assessment reports;*

- Section(s) 1(6), (8.2), (8.4), 4, 5(1), 6, 11(2) (i) (ii) (iii), 14(1) (a.1) to (iii) in the *New Home Buyer Protection (General) Regulation*.
- Section(s) 5(1) (h) and (i) in the *New Home Buyer (Ministerial) Regulation*.

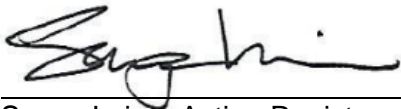
**Relevant Sections of Legislation (new provisions to be effective July 1, 2021)**

- Section 1.1(2) in the *NHBPA*:

*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 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.*

- Section 4(2.1) in the *NHBPA* has also been amended to reflect the new trigger for the start of the protection period, as specified above in section 1.1(2).

**This Registrar's Interpretation Bulletin is authorized by the Registrar.**



Sonya Irvine, Acting Registrar

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Date

Alberta Municipal Affairs  
Residential Protection Program  
16th Floor, 10155-102 Street  
Edmonton, Alberta, Canada T5J 4L4  
Phone (Toll Free): 1-866-421-6929  
[rpp@gov.ab.ca](mailto:rpp@gov.ab.ca)