

Regulatory Bulletin

Consumer Protection Disclosure Requirement

Overview

Effective September 4, 2015, applications for a residential builder licence include a section requiring the applicant, or any person in control of the applicant company, to disclose any orders, monetary penalties, convictions or judgments against them with respect to fraud, breach of contract with consumers, or for contravening specified legislation.

Section 4.05 of the revised Homeowner Protection Act Regulation allows the Registrar BC Housing to refuse to approve a licence if there have been illegal business practices that may harm consumers if allowed to continue.

The disclosure of this information will increase professionalism in the residential construction industry and ensure consumers have confidence in our licensees.

What information must be disclosed?

There are three types of information that need to be disclosed:

1. You must disclose if you, or your company are found to be in breach of a provision of any of the following 11 pieces of legislation within the last five years:

- (i) Homeowner Protection Act
- (ii) Architects Act
- (iii) Builders Lien Act
- (iv) Business Practices and Consumer Protection Act
- (v) Employment Standards Act
- (vi) Engineers and Geoscientists Act
- (vii) Real Estate Development Marketing Act
- (viii) Real Estate Services Act
- (ix) Safety Standards Act
- (x) Sale of Goods Act
- (xi) Workers Compensation Act



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Regulatory Bulletins are a series of publications developed by BC Housing to provide information on the Homeowner Protection Act. All Regulatory Bulletins can be viewed at www.bchousing.org.

This bulletin and the website are for convenience only, they do not constitute legal advice. For complete details consult the Act and its regulations. For more information contact:

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2. You must disclose if you, or your company, have been found guilty of fraud within the past 10 years.
3. You must disclose if you, or your company, have ever been found by a court to be in breach of your contractual obligations with a buyer of a new home.
4. You must disclose particulars of any offence by you, the company or any persons in control of the company. Please do not supply information about third parties not related to the offence.

If none of these situations apply to you, simply indicate so on your application.

Important note: Complaints, investigations or lawsuits that have not resulted in a breach through a conviction, order of disciplinary action by a court or other regulatory body are not required to be disclosed.

How do I know if I have been in breach of one of the 11 pieces of legislation?

Disciplinary action, compliance orders, fines, or other administrative penalties from regulatory bodies responsible for the legislation listed above, must be disclosed. For example, orders for non-compliance with the Real Estate Development Marketing Act issued by the BC Financial Services Authority must be disclosed.

Court judgments must be disclosed if you, or your company, have been found guilty of an offence related to the 11 pieces of legislation listed above.

You do not need to disclose disciplinary action or a conviction that was successfully overturned on appeal.

What will the Registrar do with the information disclosed?

The information disclosed is generally public information, however, the Registrar will not publish the disclosure unless the breach is an offence under the Homeowner Protection Act, in which case it will already be part of BC Housing's public registry.

The Registrar, or the Registrar's delegate, will review the information disclosed and verify the breach and date of breach. If the breach is verified and within the timeframes in the Regulation, the Registrar will consider if issuing a licence is consistent with the objective of consumer protection.

You should include all information in your application showing how you remedied any harm caused by the breach, or improved your business practices after the breach.

Serious breaches, or a history of breaches, may result in your licence application being denied. Other breaches might result in a conditional licence, for example, restricting enrollments or requiring you to take particular training. A minor breach does not cause potential harm to consumers and it will not affect licence issuance.

What can I do if I don't agree with the decision about my licence?

As with all licensing decisions, a decision to deny a licence can be appealed.

The first step in an appeal is to provide a written request to the Registrar to review the decision. In this request you should provide reasons why you think the decision is wrong. The Registrar will respond in writing and may overturn, vary, or uphold the original decision.

If you do not agree with the Registrar's decision, you may appeal to the Safety Standards Appeal Board, an independent third-party. You must explain to the Appeal Board why you think the decision was wrong. The Registrar will have to convince the Appeal Board that the decision was both legal and reasonable.

What happens if I don't disclose the required information?

Failing to disclose important information on your application is a serious matter. If BC Housing becomes aware there has been a breach that you did not disclose, your licence may be suspended or cancelled.

If you are not sure what to disclose, please contact the Licensing department for assistance.