

Effective: December 11, 2023

13. Licensee Role in Stopping Illegal Building/Selling

The Home Construction Regulatory Authority (HCRA) is issuing this Advisory as a reminder to all licensees about the imperative of stopping illegal home building in Ontario. This is one of the HCRA's highest priorities, in that illegal building both imperils new home purchasers and creates unfair competition for licensees.

Under the [New Home Construction Licensing Act, 2017](#) (the "Act"), and section 10 of the accompanying [Code of Ethics](#), it is explicitly stated that all licensees have a duty to comply with the laws of every jurisdiction in which they carry on business. Building or selling new homes in Ontario without a licence is illegal in Ontario under section 37 and 71 of the Act.

Under section 20 of the Code of Ethics, licensees are explicitly prohibited from facilitating or participating in the construction or sale of a new home by a builder or vendor who is not licensed. This prohibition extends to all stages of construction.

Do Not Cooperate with an Illegal Builder or Vendor

The HCRA has become aware of instances of licensees cooperating or working with unlicensed builders or vendors. For instance:

- A licensed builder builds a new home and works with an unlicensed vendor to sell that home;
- A licensed vendor works with an unlicensed builder. The illegal builder undertakes the performance of all the work and supply of all the materials and the licensed vendor sells the home;
- A licensed builder builds a new home for an unlicensed vendor intending to sell the home, not live in it or rent it out as rental property;
- A licensed builder or vendor partners with an unlicensed company in any way;
- A licensed builder or vendor fronts for an unlicensed company.

All the above scenarios are considered acts of professional misconduct and constitute a breach of the Code of Ethics.

Licensees are responsible for upholding the standards as set out in the Code of Ethics, especially as they relate to integrity, section 3, and professionalism, section 7. Any violation of these principles undermines the public's trust and confidence in the profession.



Implications of Non-Compliance:

Working with an unlicensed builder or vendor is considered a serious violation of the Act and its regulations and may result in regulatory action. This regulatory action can include, among other measures, compliance orders, administrative penalties (up to \$50,000 depending on the offence), referral to the Discipline Committee, up to suspension or revocation of a licence.

How to Avoid Working with Illegal Builders and Vendors:

The Ontario Builder Directory is a useful resource for builders, vendors, and the public to access the licence status of builders and vendors in Ontario. If you are unsure whether a builder or vendor you are working with is licensed, you can search the Ontario Builder Directory to view their licence status.

Additionally, being aware of what constitutes a new home builder or vendor in Ontario is important.

Builder – a licensed person or company who will build a home not previously occupied (i.e., a new home). It is the builder who performs the work including the supply of materials necessary to construct and warranty a completed home. This may include a project manager depending on the level of control over the project, determined by the contract or evidenced in the completed home.

Vendor – a vendor must be a licensed person or company who will sell a home not previously occupied. It is the vendor who sells and transfers title of the new home to a purchaser. For a new home that is not a home built under contract with a landowner, a vendor must have an agreement with, or otherwise employ, a licensed builder in the construction of the new home.

Make sure you understand which entities you work with require a licence, and regularly check the licence status of other builders and vendors you may be collaborating with to ensure you are not working with illegal builders or vendors.

Upholding the Act and the Code of Ethics:

Licensees have a responsibility to maintain integrity in carrying on business in the province, as per the Code of Ethics. By adhering strictly to the *New Home Construction Licensing Act, 2017*, and the Code of Ethics, licensees can foster a sector based around trust, professionalism, accountability, and excellence.

We urge all licensees to carefully review the Act and the Code of Ethics to ensure a comprehensive understanding of their obligations. If a licensee has any doubts or questions about these standards, please do not hesitate to reach out to the HCRA for further clarification.