

Effective: February 1, 2021

Last Updated: February 1, 2021

ADDENDA TO AGREEMENTS OF PURCHASE AND SALE

Requirement

Licenses are required to include the correct addendum to the Agreement of Purchase and Sale. The addenda can be found on the [HCRA website](#).

The addendum sets out the obligations of vendors, builders, and purchasers related to closing and potential delays to the home being ready for occupancy. The correct addendum is required under the New Home Construction Act, 2017 Regulation [O. Reg. 629/20: Addenda to Agreements Between Vendors and Purchasers](#). The same addendum is also required under the [Ontario New Home Warranties Plan Act \(ONHWPA\)](#)

What is an addendum and why is it important?

It can sometimes be difficult to predict when exactly the construction of a new home will be sufficiently complete to allow a purchaser to take occupancy or for the title of the home to be transferred.

A construction delay that results in a purchaser being unable to take occupancy and delays the closing of a purchase agreement may give rise to entitlement to compensation under ONHWPA. To learn more, please read [O. Reg 165/08 ONHWPA Warranty for Delayed Closing or Delayed Occupancy](#).

It is important to note, not all delays may be eligible for compensation. There are specific documents to describe the circumstances and types of delays which may qualify for a claim for compensation. These documents are collectively known as addenda.

The six addenda are:

- **The Freehold Home Addendum** (Tentative Closing Date)
- **The Freehold Home Addendum** (Firm Closing Date)
- **Condominium Home Addendum** (Tentative Occupancy Date) dated October 7, 2020 if the agreement is not for a freehold home on a parcel of tied land for a common elements condominium corporation



DIRECTIVE

- **Condominium Home Addendum** (Firm Occupancy Date) dated October 7, 2020 if the agreement is not for a freehold home on a parcel of tied land for a common elements condominium corporation
- **Limited Use Freehold Addendum** (Tentative Occupancy Date) dated October 7, 2020 if the agreement is for a freehold home on a parcel of tied land for a common elements condominium corporation
- **Limited Use Freehold Addendum** (Firm Occupancy Date) dated October 7, 2020 if the agreement is for a freehold home on a parcel of tied land for a common elements condominium corporation

The addendum that will be used will depend on the type of home, such as a freehold or condominium home. The applicable addendum must form part of a purchase agreement. Vendors are required to use the most recent version of the applicable addendum, all of which are dated October 7, 2020.

Each addendum specifies the circumstances in which they apply and the obligations of the vendor, purchasers and owners. These obligations include the vendor's obligation to provide notice, the number of days for giving that notice and the form that the notice must take.

Each addendum also includes a statement of critical dates, which clearly indicates the date the builder expects to finish the home and the latest possible date for permitted extensions (also known as the outside closing date or occupancy date). Occupancy of the home cannot happen until an occupancy permit is issued by the municipality. If the home is not ready on the outside closing/occupancy date, a 30-day termination period is triggered, during which a purchaser may have a right to terminate the agreement. Agreeing to changes to a purchase agreement with new closing or occupancy dates may affect whether a purchaser has a right to compensation because of delay.