



# HOME CONSTRUCTION REGULATORY AUTHORITY

A Guide to Good Conduct for New  
Home Builders and Vendors

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## Purpose

The Home Construction Regulatory Authority (HCRA) has been established under the New Home Construction Licensing Act, 2017 (NHCLA) to be the organization responsible for licensing and regulating new home builders and vendors in Ontario.

The HCRA's role is to strengthen consumer protection for Ontario's new home buyers by ensuring that those responsible for the construction and sale of new homes are licensed and are meeting the HCRA's high standards for competency, conduct, and financial responsibility.

The purpose of this Guide is to help licensees and applicants for a licence understand the HCRA's approach to assessing the good conduct expected of all new home builders and vendors. Applicants for a licence must satisfy the HCRA Registrar that they can reasonably be expected to act in accordance with the law and with honesty and integrity. This Guide will outline those expectations of good conduct and will provide examples of potential concerns that may result in the need for further assessment by the HCRA<sup>1</sup>. After becoming licensed, meeting the HCRA's expectations of good conduct is an ongoing responsibility of every licensee.

## Introduction to Licensing under the NHCLA

Under the NHCLA, new home builders and vendors are required to have a licence from the HCRA before they can build or sell new homes in Ontario.

The purpose of licensing and regulation is to ensure licensees comply with the law and meet provincial standards, supporting public confidence that new home builders and vendors are qualified to perform the work.

New home buyers are entrusting their financial and other interests to their home builder or vendor. Licensing provides assurance that licensees meet the HCRA's professional standards. This gives greater protection to consumers and to the overall integrity of the new home industry.

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<sup>1</sup> Throughout this Guide, references to the HCRA include the Registrar

Licensing requirements include technical competence, financial responsibility, and demonstration that applicants will conduct themselves in accordance with the law and with honesty and integrity. The assessment of good conduct will include a careful consideration of past and current conduct that might impact new home buyers and owners and whether the HCRA can reasonably expect an applicant to consistently meet ethical standards.

The HCRA licensing process includes the collection of information necessary for the HCRA Registrar to decide if an applicant is entitled to a licence. The HCRA must exercise due diligence to identify applicants and licensees whose past and current conduct brings into question whether they can reasonably be expected to act legally and ethically.

The HCRA takes a proactive approach to licensing that involves identifying and measuring the specific risks to the public, starting with the initial review of each new licence application and ongoing monitoring and enforcement of obligations under the law during the term of a licence.

If the Registrar determines that an applicant or licensee does not or cannot reasonably be expected to meet the expectations of good conduct, the HCRA Registrar may take actions regarding an application or ongoing entitlement to a licence. Such potential actions are discussed in the final section of this Guide.

## Legislative Framework

Section 38 of the NHCLA states that an applicant is entitled to a licence or a renewal of a licence if, in addition to other factors such as technical competence, their past and present conduct provides a reasonable basis to believe that they will carry on business ethically and legally:

If the applicant is an individual, clause 38 (1) (a) (ii) states: the past and present conduct of the applicant, of all interested persons in respect of the applicant and of all other prescribed persons affords reasonable grounds to believe that the applicant will carry on business in accordance with the law and with integrity and honesty

If the applicant is a corporation, clause 38 (1) (b) (iii) states: the past and present conduct of its officers and directors, of all interested persons in respect of its officers and directors and of all interested persons in respect of the corporation affords reasonable grounds for belief that its business will be carried on in accordance with the law and with integrity and honesty

## Conduct Across Entire Organization

The HCRA's expectations of good conduct apply to the full organization of a home builder or vendor, including personnel such as marketing and sales representatives, construction site supervisors, trades, warranty and customer service staff. The HCRA expects licensees to ensure that the people they employ and contract with are aware of their obligations and are able to uphold the expectations of good conduct. These expectations apply at the time of applying to be licensed and continue to apply for the duration of the licence.

## The Application Process

In the licensing application, an applicant must answer questions related to conduct or circumstances that are relevant to the Registrar's assessment of whether the applicant can reasonably be expected to meet the expectations of good conduct. The self-reporting requirements in the application include providing full and detailed information about the conduct or circumstances and providing any supporting documentation. Applicants are required to answer all questions honestly and accurately. Failure to do so may result in a decision to refuse a licence, revoke, or suspend the licence if the applicant is seeking a renewal, require one or more conditions on the licence, and possibly other action.

Only new applicants are required to provide a Criminal Record and Judicial Matters check<sup>2</sup>. A new application from a current licensee (such as a developer establishing a new umbrella corporation with no changes to the licensed team for a specific development project) would have the option of submitting an affidavit declaring no material change in matters related to expectations of good conduct, and completing the other sections of the application to provide information to demonstrate a record of good conduct.

The following is a list of the areas for self-declaration information in the application form that relate to expectations of good conduct.

- Have you ever had a commercial, professional or business registration, certificate or licence of any kind refused, suspended, revoked, cancelled or been subject to disciplinary action in respect of those registrations, certificates or licenses, or have you ever been or are you currently a party to such a proceeding?

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<sup>2</sup> A Criminal Record and Judicial Matters check is a search of police database records about an individual, which is conducted as part of a screening process. For more information about these checks in Ontario, visit the page from the [Ministry of the Solicitor General](#).

- Has any civil action been taken against you personally or against a business that you owned or currently own, or in which you played a controlling role, in the last 10 years? Are there any unsatisfied judgements or court orders, or collection activity against you or those businesses?
- Have you ever been found guilty or convicted of an offence under any law, or are there any charges pending? Make sure to include cases with a conditional, absolute discharge or stayed charges. Please note: This question refers to charges under any law, including the Criminal Code, Building Code Act, Provincial Offences Act, Workplace Safety and Insurance Act, or Income Tax Act. You must answer “yes” even if the finding of guilt, conviction or pending charges do not appear on a Criminal Record (or other) check.
- Have you had a restraining order or other judicial order against you in the previous 10 years under any law, including the Provincial Offences Act, Criminal Code, Workplace Safety and Insurance Act, Family Law Act, or the Children’s Law Reform Act?
- To the best of your knowledge, are any investigations being conducted on you in any jurisdiction?
- Have you been involved in the construction of a new home in Ontario in the previous 10 years by a builder that was not licensed or where that new home was not registered for warranty coverage?
- Have you been involved in the construction or major renovation of a home in the previous two years? If yes, what is the full municipal address?

The HCRA will consider information received from [Tarion](#) that is relevant to an applicant’s good conduct, including their history of meeting their warranty obligations. Information from external sources, including about charges and convictions, terminations from employment for cause, and past discipline and licensing actions by a regulatory authority will also be considered.

The HCRA will take a holistic approach to assessing conduct. The Registrar will consider a broad range of factors including how much time has passed since the conduct; whether the conduct is part of a pattern of behaviour, and steps taken to redress the impact of the conduct. The Registrar will also consider the circumstances of each individual matter.

The expectation of good conduct is an ongoing obligation. The licensee is expected to uphold these standards throughout the term of their licence.

## What are the Expectations of Good Conduct?

Modern regulators have clear expectations of conduct. Expectations of good conduct reflect the values that are at the core of a proactive approach to consumer protection and provide clarity about the HCRA's expectations of what is acting in accordance with the law and with honesty and integrity.

The following are general expectations of good conduct that the HCRA will consider in determining whether a person is entitled to be licensed or to remain licensed. Applicants and licensees will be expected to:

- Comply with the NHCLA and its regulations. This includes an obligation to comply with the Ontario Building Code and the Ontario New Home Warranties Plan Act
- Treat people fairly, honestly and with integrity
- Honour their new home warranty obligations
- Not engage or be a party to misrepresentation or false or misleading advertising
- Not engage in behaviour that is harassing, bullying or discriminatory
- Provide reasonable accommodation for persons with disabilities
- Maintain required privacy and confidentiality of personal information and not disclose personal information without consent or as required by law
- Not participate in or facilitate the building or selling of new homes in Ontario by someone who was required to be licensed as a builder or vendor, or required to obtain confirmation of enrollment by Tarion, but failed to do so
- Avoid conduct that would reasonably be regarded as being disgraceful, dishonourable, unprofessional, unbecoming a licensee or likely to bring the new home construction and sales sector profession into disrepute

## Code of Ethics

Clause 84 (1) (f) of the NHCLA allows the Minister of Government and Consumer Services to establish a [Code of Ethics](#) for licensees. Before granting a licence, the Registrar must believe the applicant can reasonably be expected to comply with the law and act with honesty and integrity, which includes compliance with the *Code of Ethics*. Once the *Code of Ethics* comes into force, the HCRA Registrar will consider *the Code of Ethics* regarding a licensee's ongoing entitlement to a licence. A failure to comply with the *Code* may result in the conduct being referred to the HCRA Discipline Committee. This Guide to Good Conduct will be amended once the Government of Ontario has passed a regulation to create the *Code of Ethics*.

## Actions of the HCRA Registrar

The HCRA is responsible for assessing all applications for initial licensing and renewal of licence to ensure the applicant is entitled to be licensed, both initially and during the term of a licence. The HCRA Registrar may refuse, suspend, or revoke a licence, or impose a condition on a license including in circumstances where the Registrar has reason to believe that an applicant or licence holder cannot reasonably be expected to meet the expectations of good conduct.

At the initial screening stage, any potential good conduct concerns that have been disclosed or identified will be:

1. Reviewed on the basis that the issues disclosed do not give rise concerns that the applicant would not act in accordance with the law or with honesty and integrity;
2. Resolved following review of additional information or clarification received following a request by HCRA and a determination that the issues do not give rise to concerns that the applicant would not act in accordance with the law or with honesty and integrity; or
3. Referred to the Licensing Manager for further inquiry.

If further inquiry is necessary, the applicant will be provided an explanation which includes next steps and the expected timing of the inquiry. Factors that may be considered in undertaking a further inquiry include: the past criminal and other record of offence of the applicant, the seriousness of any offence, the risk to the public, the extent of any harms that have been or could be caused, and the builder or vendor's willingness to comply with licensing requirements.

The HCRA's commitment to promoting high professional standards for new home builders and vendors starts with a commitment to help applicants and licensees to come into compliance with the rules of the new home construction sector and to stay in compliance. Where there is no previous history of concern or of non-compliance, and where appropriate to the circumstances, the HCRA will support good conduct expectations by providing compliance assistance and implement progressive compliance and enforcement actions.

The HCRA has adopted a compliance-focused approach to support the objectives of the NHCLA, through an efficient and effective process. The compliance-focused approach aims to maximize the regulatory effectiveness of harm reduction efforts while minimizing burdens imposed on the regulated industry. Measures include compliance assistance, guidance, and education. As the risk to home buyers increases, the HCRA will escalate its response to prevent or mitigate potential harm. For situations where the level of risk is immediate and serious, the HCRA will use available enforcement actions.

Regulatory decision making is guided by this broad objective of consumer protection and by a commitment to treat applicants and licensees fairly, with consistency and transparency, and with consideration to the unique circumstances of each applicant.

If the Registrar has reason to believe that licensing conditions are needed to ensure good conduct, then licensing conditions will be proposed. Should the Registrar determine that the applicant cannot reasonably be expected to meet good conduct requirements of acting in accordance with the law and with honesty and integrity, the Registrar may propose to refuse, suspend, or revoke the licence.

An applicant or licensee who has been refused a licence or a renewal of licence, or had a licence suspended or revoked or had conditions applied to the licence is entitled to ask for a hearing before the License Appeal Tribunal.