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INTERESTED PERSONS

Requirement

As part of the licensing or renewal process, the Home Construction Regulatory Authority (HCRA) requires applicants or licensees to identify “interested persons” as part of the licensing or renewal process. They also have an obligation to notify the Registrar of any changes to the information provided.

Purpose

The concept of “interested person” is new to the home building sector but is quite common across many regulated professions and sectors.

The “interested person” are individuals and corporations who have, or may have, influence over a person or the person’s business. It includes those:

- With a beneficial interest in the business of the applicant/licensee;
- Who control the applicant/licensee directly or indirectly;
- Who have or may contribute financially to the business of the applicant/licensee;
- Who have a relationship with the applicant/licensee (such as family members, business partners);
- Who were previously licensed

The New Home Construction Licensing Act (NHCLA) defines interested person in subsection 1(2) as two components:

The first component of the definition is “associated persons”. Associated persons are specifically listed in subsection 1(3) of the NHCLA and include officers and directors of a corporation and partners in a partnership. For example:

- An officer might be a Chief Financial Officer (CFO)
- A director would be a director of the Board

An associated person might also be a corporation that controls the applicant/licensee. Associated persons are deemed to be interested persons due to their position within the applicant’s company, and thus are required to undergo a detailed background check.



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The second group of interested persons are those who may have a beneficial interest in or have control over the applicant or licensee's activities. For example:

- The interested person stands to share in the profits of the business;
- The interested person is a majority shareholder in the applicant/licensee's corporation or has a contractual arrangement that gives them decision making authority over one or more activities of the business;
 - Note: The interested person may have an influence even though they are not a majority shareholder. The HCRA requires information about persons with beneficial ownership or control of 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation.
- The interested person has or will be providing financing to the business by way of a loan or mortgage

In summary, an interested person is an individual who exercises influence or control over the operation of the applicant or licensee. The interested person's influence may be the result of direct or indirect authority and/or financial control over the business.

Process

Given these factors of influence and control, the Home Construction Regulatory Authority (HCRA) requires applicants or licenses to identify interested persons as part of the licensing or renewal process. They also have an obligation to notify the Registrar of any changes to the information provided.

At the time of application for license or renewal, interested persons are not automatically required to undergo a Criminal Background and Judicial Matters Check. The Registrar may, however, request additional information regarding the identified interested persons.

Applicants or licensees must include the following details about their interested persons:

- Past and present conduct and financial responsibility;
- Current or previous registration with Tarion under the Ontario New Home Warranties Plan Act;
- Current and previous licensing with the HCRA under the New Home Construction Licensing Act, 2017

Unlike principals, officers and directors, interested persons will generally not be required to provide a Criminal Record and Judicial Matters check unless requested as part of a more detailed licensing review. The request may be made if there is reason to believe that the influence or control of the interested person will impact the applicant or licensee's ability to act in accordance with the law or with honesty, integrity, or to be financially responsible in the conduct of business. This concern may arise, for example, if the interested person has a previous or current adverse licensing history with the HCRA or Tarion or a financial history of bankruptcy.



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The interested person concept enables the Registrar to consider the conduct of persons who, while are not the applicants or licensees, have authority over the activities and operations of their business. For example, the Registrar may determine through investigation that a former licensee, whose licence was revoked due to Tarion warranty conduct issues, is attempting to continue operations in the industry by employing and working with a new applicant or licensee. In this case, the previously revoked licensee would be considered an interested person and their previous conduct would be a factor in the new application.

Reference to the NHCLA's definition of "[interested person](#)"

Reference to the NHCLA's definition of "[associated person](#)"