



Pre-sale Protection

In British Columbia pre-sales have allowed tens of thousands of families to successfully purchase a home. A pre-sale is a contract for the purchase and sale of a unit made prior to construction or completion of a project. Developers and purchasers enter into contracts that provide for units to be built within a period of time and sold for an agreed fixed price. A certain number of pre-sales are generally required by the financial institutions before they lend money for projects. Purchasers usually pay deposits to the developer's realtor or lawyer in trust as part of the pre-sale agreement. These deposits are **fully protected under the law and are paid back in full** to pre-sale purchasers if a project does not proceed.

The purchase of a new home will be the largest and most important purchase you make in your lifetime. Therefore it makes sense to protect this investment by doing proper due diligence. UDI suggests the following key points when purchasing a pre-sale unit:

- **Know who you are buying from:** Find out the history of the company you are purchasing your unit from. What industry experience do they have? What are their previous projects? Are they a well capitalized company? Do they have any project failures in the past? Ask these questions of your professional advisors (your lawyer or a licensed real estate broker), and do an internet search, starting with the company's website.
- **Use the 7 day rescission period:** When you purchase a pre-sale unit, under the law you have up to seven days to rescind the offer. Use this week to read the Disclosure Statement and Contract and to seek professional advice from a lawyer on the contents and implications of your purchase contract, so you fully understand it. If there is something you do not understand, **do not be afraid to ask questions** – especially of the developer and your professional advisors. This is the reason behind the seven day rescission period. A Lawyer Referral Service is offered by the BC Branch of the Canadian Bar Association. They can be reached by phone at (604) 687-3221 in the Lower Mainland, or toll free throughout the Province at 1 (800) 663-1919.
- **Know your rights and obligations under the Contract:** The review noted above should certainly include a thorough analysis of the terms that allow for the cancellation of the project – or delays. This includes whether interest will be paid on the amount of the deposit. There may be other rules in the contract; such as the purchasers obligations and the developer's rights relating to the termination of the contract, and if (and how) pre-sale purchasers can assign (sell) their purchase contracts or units to new buyers. These issues need to be understood as well.
- **Know your rights under the Law:** Developers must follow numerous rules with regard to their disclosure statements under provincial law. This information is readily available at the BC Financial Institutions Commission

web site at www.fic.gov.bc.ca/responsibilities/realestate/overview.htm. There is also a Frequently Asked Questions webpage on the site at – www.fic.gov.bc.ca/responsibilities/realestate/faqs.htm. Several important questions that consumers should ask are answered, including –

- (a) “What information must a developer provide to a purchaser?
- (b) After a purchaser has signed a purchase agreement, can the purchaser cancel that agreement?
- (c) How can a purchaser [give] notice [to] the developer that the purchaser is cancelling the purchase agreement?
- (d) Can a purchaser obtain a copy of the Disclosure Statement and any Amendment from our office?
- (e) Can a developer change the Disclosure Statement without a purchaser’s approval?
- (f) What remedies does a purchaser have if the Disclosure Statement contains an omission or misrepresentation, or is amended after the purchase agreement was signed?
- (g) Can [the BC Financial Institutions Commission] enforce a purchaser’s rights?
- (h) What can be done if a purchaser believes a developer’s Disclosure Statement is deficient and the developer is still marketing?
- (i) How can a purchaser make a complaint about a realtor?
- (j) Can a developer use [a] deposit to construct and market the development units?”

Further information on your legal rights can be provided by your lawyer or contact the BC Financial Institutions Commission. Their contact information is as follows:

Inquiries	(604) 953-5200
Toll Free:	1 (866) 206-3030 - outside local calling area within B.C.
Fax:	(604) 953-5301
General Email:	FICOM@ficombc.ca

Please note, UDI will be updating this website with further consumer information regarding purchasing a new home.