

# THE TOP 10



## MISTAKES

# New Home Buyers Make + how to avoid them

Why you should be wary of show homes, what to do if your place isn't ready on time, the trick to saving on upgrades, how to get a lower price + much more

**By Romana King Illustrated by Mark Smith**

**W**hen Karen Somerville and her husband Alan Greenberg showed up for the pre-delivery inspection of their brand new luxury home in Ottawa they were horrified. Electricians, drywallers, plumbers and a variety of other tradespeople were still busy constructing their home and, despite assurances from the builder, the couple seriously doubted their \$443,000 new build would be ready for possession in 14 days. Electrical wires hung from ceilings and stuck out from unfinished walls, appliances and cabinets were stacked in the kitchen, and only a portion of the hardwood floors had been installed. They immediately hired an independent contractor to examine the home. The result was a deficiency report citing 130 problems, including an undersized furnace and ductwork, poor ventilation and improper roof installation.

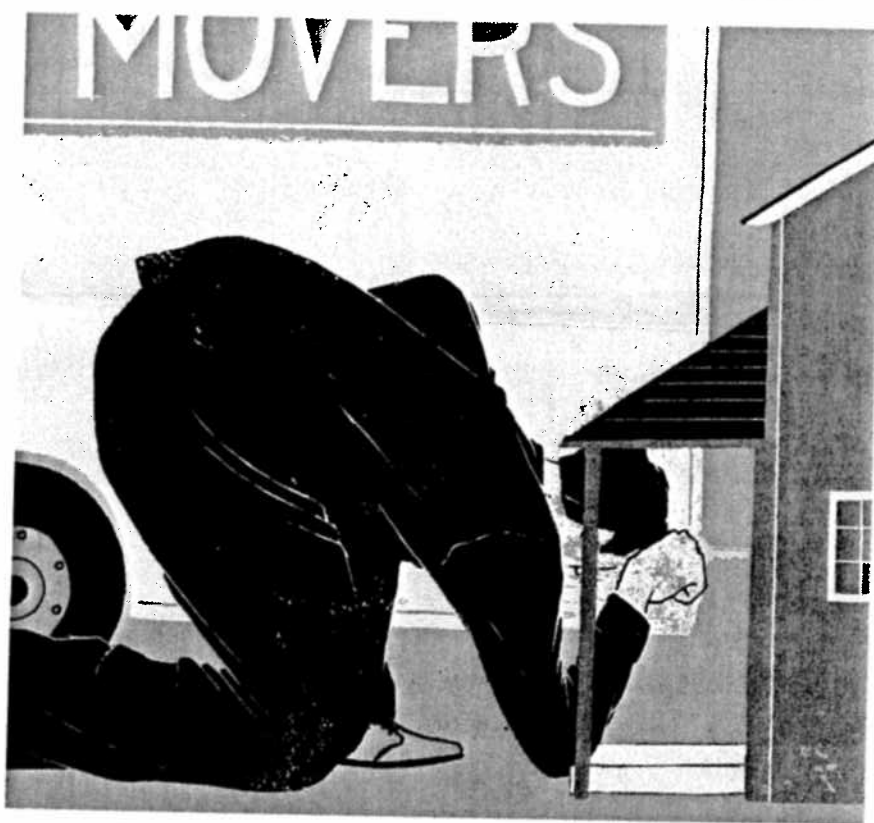
At first, Karen, then a university professor, and her husband Alan, an account manager with Sun Microsystems, tried to negotiate with the builder to resolve the problems. When this proved futile, the couple turned to Tarion—the private corporation that regulates Ontario builders and provides warranties on new houses and condos. Tarion sent its own inspector who confirmed that there were 85 defects in the home—but only 39 were considered to be under warranty.

Karen and Alan would be on the hook to fix the other defects themselves, which would cost the 40-something couple \$4,000 or more. “This is the largest purchase we, as consumers, make,” says Karen, “and Tarion is supposed to be there to help.” Instead, she found herself having to document and defend an appeal against the provincial warranty program’s decision—despite paying a \$650 fee for her new home warranty.

Buying a new home directly from the builder, whether a condo, townhouse or

detached, is a popular choice. Almost one third of all homes sold in Canada each year are brand new. In Ontario alone, more than 52,500 buyers opted for a new build last year, and a forecast by the Canada Mortgage and Housing Corporation (CMHC) predicts that number will only climb. Despite the problems Karen and Alan encountered, it’s easy to see the appeal: Buying direct from the builder means you can customize your dream home to your exact tastes. It means higher energy efficiency ratings than older homes, and often higher quality building materials. New homes also have lower maintenance costs and are less likely to surprise you with a serious issues such as a cracking or tilting foundation, severe plumbing problems, asbestos or knob-and-tube wiring that needs replacing.

But as Karen and Alan discovered, there are some pitfalls specific to a new home purchase too—pitfalls that we don’t want you to run into. To help out, we’ve compiled ►



the top 10 mistakes that new home buyers make, so you can be sure to avoid them. Read on to find out why you should be wary of the show home, what to do if your new place isn't ready on time, how to save big money on upgrades, and most importantly, how to make sure that the dream home you're expecting is the one you actually end up getting.

**MISTAKE:**  
**#1** **They fall in love with the show home**

When Jason Saxon and his wife Emily set out to find a builder in the quaint Edmonton suburb of Spruce Grove, they were surprised to find only two builders operating in the area. "Only one of them offered the separate dining room that we wanted," says Jason, which made their choice easy. The deal was clinched when they toured the builder's magnificent show home. "It had *everything* we needed," gushed the systems analyst. The couple (whose names have been changed to protect their privacy) was so impressed by the show home they booked an appointment with a salesperson on the spot. Within days they had a signed purchase agreement and were busily designing their dream home.

That, of course, is the result every builder is aiming for, explains Stan Garrison, an industry insider with more than 20 years

experience (we've changed his name to protect his privacy). "Most people fall in love with the show home, but you have to realize that everything you see in that model home is an upgrade," he says. "And upgrades are a major portion of a builder's 10% to 20% profit margin."

Upgrades are so profitable for the builder because the industry standard is to charge double the sub-trade's fee—a cost that is passed directly to the buyer, Garrison says. "That means the \$8,000 granite countertops you ordered really cost your builder \$4,000. Now multiply that by 25 buyers and you can see how builders make a profit."

That doesn't mean you should never order an upgrade, but you do need to be clear on what is an upgrade and what isn't—and do a little bargaining so you don't get taken for a ride. "With new builds there is no room for negotiation on the base sale price," explains Max Wynter, a realtor with Re/Max Realtron Brokerage in Markham, Ont. "But there is room to negotiate the price of your upgrades."

The rule of thumb is the more upgrades you spring for, the bigger the discount you should angle for. "If you purchase \$5,000 in upgrades the builder may only give you a 10% discount," says Garrison. "But purchase \$50,000 in upgrades and you can start asking for \$10,000 to \$15,000 off the final price."

**MISTAKE:**  
**#2** **They trust the floor plan**

Ken Grunber, who works at a video production house in Toronto, found out too late that the new condo unit he bought in 2007 wasn't nearly as large as advertised. When he and his partner moved in and measured the area, they discovered it wasn't 700 square feet after all. The condo was actually 560 square feet—if you don't count the balcony and bathroom.

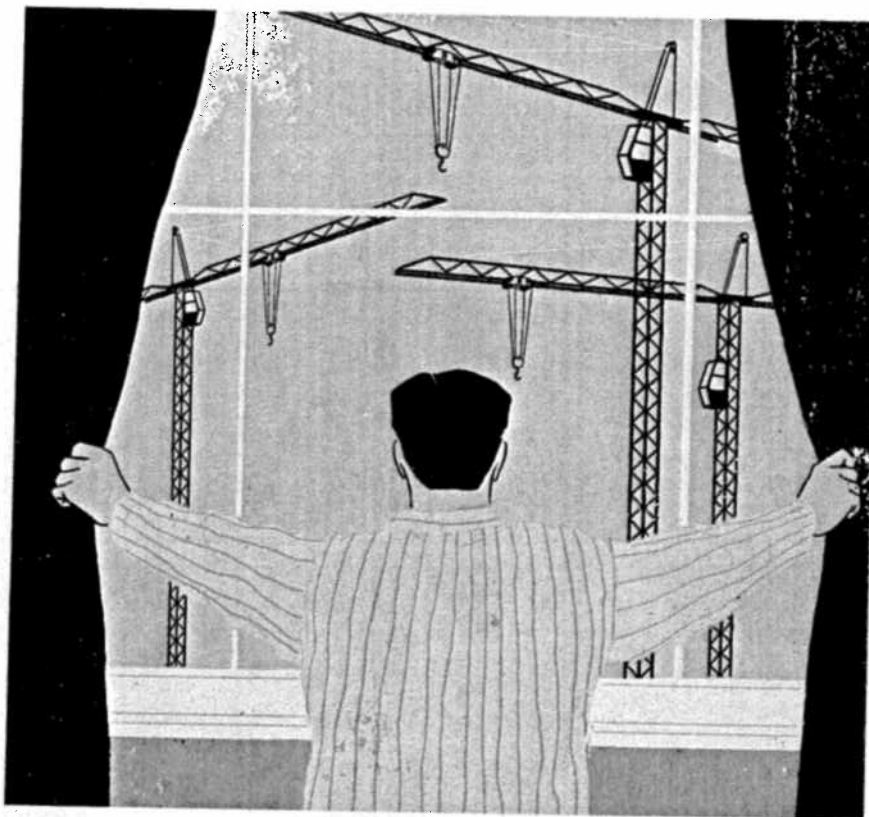
"That's not unusual," says Martin Rumack, a real estate lawyer with over three decades experience in new build construction. "Condo sales staff will often include balcony or terrace measurements as part of the total square footage. New home sales staff will provide square footage based on measurements of external walls. You can't rely on their verbal assurances, on the floor models, or on the sale pitch or brochure."

Unfortunately, many new home decisions are based solely on brochures or artist renditions. For instance, a sales brochure sold the Saxons on upgrading to French doors for the entrance to their walkout patio. "We'd originally seen the sliding doors in the show home, but a brochure highlighted the double French doors and we loved the look," says Jason. They quickly paid the upgrade fee, but when they moved in they were surprised to find the doors didn't have the little window panes with wooden slats between them that they had seen in the photo. Instead there was just one huge pane of glass in each door. "The price quoted by the builder's sales rep didn't include window slats, just clear glass. It would cost us more to get slats," Jason says. "Now I know: get every detail in writing."

In fact, the builder has the discretion to change an image, or floor plan, or layout and "you have no say," says Rumack. He suggests asking for a breakdown of room sizes and plan details, and to "get it in writing." Then, if there's a substantial difference between what you're sold and what you get you can either negotiate a price reduction or try and get out of the deal.

**MISTAKE:**  
**#3** **They don't get their contract lawyered**

Whether you're buying a new detached home or a condo, the purchase agreement is the legally binding document that spells out what you're getting and the conditions of the sale. It's full of fine print and legal-speak, ▶



and if you sign without legal representation, you risk being bound to terms you don't understand or don't want. More importantly, says Rumack, it destroys any chance of renegotiating the terms of the sale.

"Skip legal advice and you could end up with an electrical utility box on your front lawn that you can't do anything about, or no side door on your garage, regardless of what the plans looked like," he says. "You could find yourself stuck with any manner of substitutions, exclusions or inclusions that could detract from your home's future value."

When you're buying a condo, depending on the province you live in, you may have a cooling off period of up to 10 days. This gives you a chance to pay \$800 to \$1,600 and hire a lawyer to go through your contract after it's signed. If you don't like what they find, you can back out of the deal.

Unfortunately, there's no such period for freehold homes, and many home builders demand that you sign a contract on the spot to secure your sale price or lot selection. Try to avoid this situation if possible, but if you must, at the very least insist on adding a clause that makes the deal conditional upon approval by your solicitor. "These days more and more builders are offering buyers a two-day period where they can seek legal advice before the contract becomes binding," explains real estate lawyer Sheldon Silverman.

**MISTAKE:**  
**#4** : They don't bother with an inspection

During the home buying process there are two specific times when it's important to have your house inspected. The first is the pre-delivery inspection, a mandatory walk-through for all new homes under warranty. This inspection takes place with your builder shortly before you officially take possession of your home. The second inspection should be scheduled for about one month before your home warranty expires. In Ontario the first and broadest portion of your warranty expires 12 months after your possession date, in B.C. it's 24 months after possession.

During the pre-delivery inspection, you probably don't need to pay for a professional inspector, but you might want to "take along a friend who's wise about construction," says Silverman, "because if you don't write down the deficiency then the builder isn't obligated to fix the problem."

However, hiring a professional home inspector to do a second walkthrough before your warranty expires is a must. This will allow your home to go through all four seasons, which is enough time for major defects to start showing up, and you'll still be able to get them fixed under the first stage of the standard provincial warranty, which covers against material and labour defects.

**MISTAKE:**  
**#5** : They accept delays without a fight

Believe it or not, until quite recently, if your new house wasn't ready on time, it was your problem. "Builders were not required to provide reasons or to limit their delays," says Rumack. But that all changed when Toronto condo buyer Keith Markey challenged a Tarion decision five years ago.

In 2001, Markey bought a unit in a soon-to-be constructed condominium tower in downtown Toronto. His initial possession date was Nov. 30, 2002. But as the date approached, the builders kept sending letters announcing delays. Markey's possession date was moved back six different times—he wasn't able to move in until eight full months after the initial possession date.

He requested \$5,000 from the builder to compensate him for the delays. The builder refused, the case went before a tribunal, and Markey won. Tarion appealed the case, but in 2006, Markey was vindicated: Not only did he receive almost \$5,000 in compensation but close to \$9,000 in damages. The case changed how Tarion and other provincial warranty programs handle builder delays.

"The law is now clear and critical dates are now included as part of the purchase agreement and contract," says Silverman. "If a builder misses these critical dates and requires an extension, a buyer can either agree, and seek compensation, or simply get out of the deal." Either way, Silverman suggests seeking legal advice whenever you're presented with a request to delay a critical date.

**MISTAKE:**  
**#6** : They forget they are moving into a construction zone

Anyone considering a new condo or home purchase should take into consideration the impact of ongoing developments. As one reader, who bought into the first phase of a three-phase condo development, recalls: "It's noisy, everything is dusty and the air quality is just plain horrible—not even the best furnace filter could catch this dust. Combine that with the fact that the whole area is ugly for quite a long time and that access points can open and close, depending on the phase, and you have a recipe for long-term aggravation."

Still, others, such as Jason Saxon, were mentally prepared for living in a construction site, and actually found it kind of fun—at times anyway. "You take the dust and dirt ▶

and noise with a grain of salt," he says. "And it's actually nice watching the homes go up." In fact, there were only two days out of that first construction year when the Saxons and their neighbours felt truly inconvenienced. "When the builders put the final grading on our road no one could drive or park on our street," Jason recalls. "For many of our neighbours that meant a hike through muddy and overgrown fields just to get home."

**MISTAKE:**  
**#7** **They think they have a warranty—but they don't**

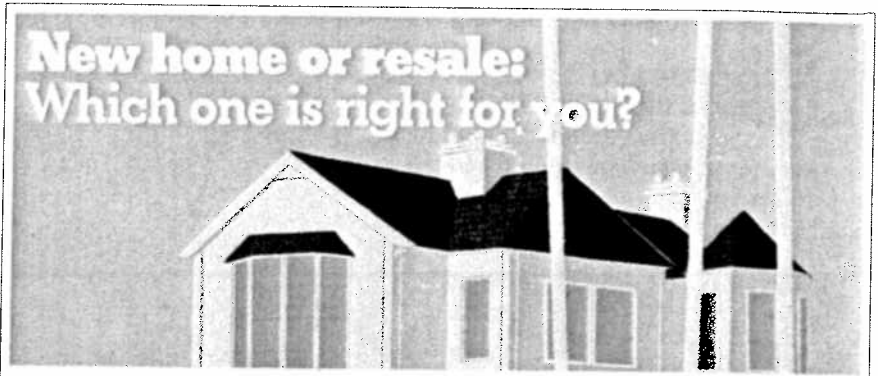
Most buyers assume that all new-build lofts, condos and homes are covered by a provincial warranty, but this isn't the case. Only three provinces—B.C., Quebec and Ontario—make warranty coverage mandatory. In fact, those are the only provinces that require new home builders to register with their respective provincial regulator at all.

"In Ontario, it's illegal to build without being registered," says Janice Mandel, vice president of corporate affairs at Tarion. But in other provinces, where the warranty program isn't mandatory, builders can simply opt-out of coverage. Often they'll try to convince home owners that they're saving them the registration costs.

Buyers should be proactive and get their new home warranty in writing, says Mandel. They should also go online to determine if their builder is registered with a provincial regulator as a new home builder. This is particularly important for loft or condo conversions—residential units constructed inside an existing building shell. In such situations, new-build warranties often don't apply.

**MISTAKE:**  
**#8** **They're not speedy with their warranty claims**

When the Saxons first moved into their dream home near Edmonton, they were delighted. But they soon found themselves caught in a bureaucratic nightmare. During that first winter in their new home, they noticed a large crack in the cement-block floor of their garage. So they called the builder, who told them that when the ground thawed in the spring the problem would be fixed. A few months later, when the ground started to thaw, they noticed even more cracks stretching from their garage down their driveway. "We phoned, spoke to the site super, and even flagged down a builder's representative, who promised us a new driveway." ➤

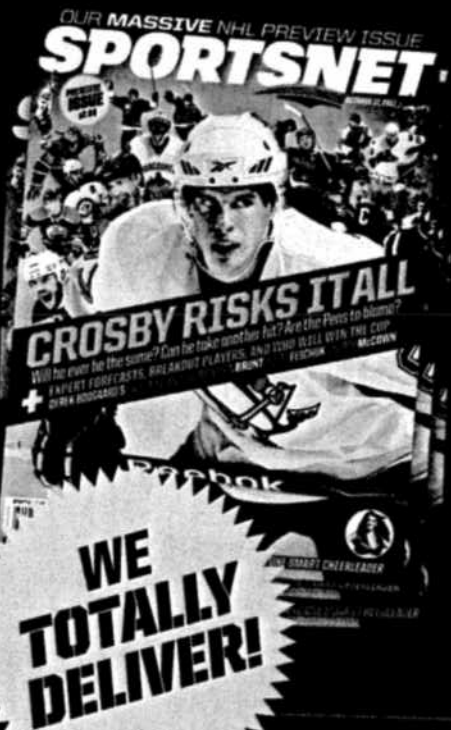


The decision between buying a new or resale home is more than a dollar-and-cents debate: it's a decision about lifestyle. Some people love the gleam of a modern place while others love the classic touches of a century home. Below is a direct comparison to help you make up your mind.

	Resale Home	New Home
<b>Location</b>	<ul style="list-style-type: none"> <li>Best option if you desire a more established neighbourhood</li> <li>Greater access to urban transit</li> <li>Closer to neighbourhood infrastructure, such as houses of worship, schools, stores and community centres</li> </ul>	<ul style="list-style-type: none"> <li>Best option if you value a brand-new, safe community</li> <li>Usually found on the outskirts of town or in the suburbs, so commuting may be a factor</li> <li>Neighbourhood infrastructure is often not well developed, but there is usually access to large malls, supercentres and retail complexes</li> </ul>
<b>Purchase Price</b>	<ul style="list-style-type: none"> <li>Typically less expensive per square foot than new homes</li> <li>Price is negotiable</li> </ul>	<ul style="list-style-type: none"> <li>Usually more expensive per square foot than resale</li> <li>Price is not negotiable</li> </ul>
<b>Other costs</b>	<ul style="list-style-type: none"> <li>You'll always spend more on maintenance with a resale home</li> <li>Costs to comply with current building codes must be added to any remodelling plan</li> <li>Building materials are outdated and may be expensive to replace</li> </ul>	<ul style="list-style-type: none"> <li>You have to pay extra for every upgrade</li> <li>Built to current building codes</li> <li>Energy efficient, so upkeep and maintenance is usually minimal</li> <li>If under warranty, most defects or deficiencies are covered</li> </ul>
<b>Character</b>	<ul style="list-style-type: none"> <li>Often found on streets lined with 100-year-old trees among unique homes from across several decades</li> <li>Inside you can find architectural details such as vaulted windows, high ceilings, built-in cabinetry</li> </ul>	<ul style="list-style-type: none"> <li>Offers open, updated living space with clean, modern designs</li> <li>Any architectural flourish, such as high ceilings, is considered an upgrade (and you'll have to pay)</li> <li>If your home is one of the first built, be prepared to live in a construction zone for a while</li> </ul>
<b>Move-in Dates</b>	<ul style="list-style-type: none"> <li>You can negotiate your possession date, which can make your move more convenient</li> </ul>	<ul style="list-style-type: none"> <li>Possession dates are inflexible, and often delayed</li> </ul>
<b>Your Neighbours</b>	<ul style="list-style-type: none"> <li>Older neighborhoods often have a mixed bag of residents, from young families, to renters, to seniors</li> </ul>	<ul style="list-style-type: none"> <li>Often attract a more homogenous buyer group (developers will target a specific clientele, such as retired seniors or new families)</li> </ul>

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## HOME

But weeks went by and nothing happened. "What was frustrating was coming home to see that our neighbour had a newly poured driveway and ours was still pock-marked and cracked." That's when Jason started sending emails. "You have to hound the builder, who seems willing to fix anything, but just needs a lot of motivation." After weeks of sending emails and making calls the Saxons finally got a new driveway and garage floor.

The Saxons were able to get the problem fixed because they were proactive and understood that there are strict time limits on making claims. To ensure you understand how long you have, carefully read the package you get during the pre-inspection, as there are different deadlines for different types of warranty claims. "My advice: get a calendar and mark down those deadlines, and then make sure you get the claim in at least five days before the deadline," says Peter Balasubramanian, vice president of claims for Tarion.

While you're reading your new home package, you should also familiarize yourself with the maintenance you have to do to ensure your warranty remains valid. For instance, if you forget to change your furnace filters or fail to clean out your gutters you could find a claim regarding deficient heating or water penetration into your basement is deemed to be invalid.

### MISTAKE: **#9** They're ambushed by hidden closing costs

When you sign the purchase agreement for your new place, many of the closing costs are estimates. These costs often escalate as you approach your possession date, and both Rumack and Silverman have seen their fair share of "absurd" adjustments tacked on to a buyer's purchase contract. For instance, you may find large charges that suddenly materialize for hooking up gas and electricity meters, plus mortgage discharge fees, development fees, deposit verification fees—Rumack has even seen a fee for "public art contributions" to cover the cost of a sculpture by a building's entrance. "That's why I pay close attention to the adjustments and try and get a cap on certain items and remove others," Silverman says.

### MISTAKE: **#10** They buy at the wrong time

If you're buying a new condo or townhouse as an investment, the key is to get in as early as possible. In order to get the financing to

start a new project, builders will often raise initial funding through pre-sales. These pre-sales often kick off with invitation-only VIP events, says Wynter. Usually, only high-volume realtors who specialize in the type of building on offer are invited. "If you see a VIP event has been scheduled." Once the VIP event is over, the builder will open sales up to all interested realtors, then finally they'll open the project up to the public. "By the time a builder throws a grand opening for the general public, often 50% of the units have already been sold and the price has gone up three or four times," explains Wynter.

It's easy to get in on these VIP pre-sales, but you'll need to work with a realtor who specializes in new developments and be ready to move quickly. For instance, the Paintbox development—the second phase of condos in the newly revitalized Regent Park area of Toronto—gave VIP realtors a week to register their clients for the pre-sale. Four days after registration closed clients were required to sign the paperwork.

Despite the potential savings on purchase price, this can be a risky way of buying real estate. When the Vancouver condo market turned in 2008 many pre-sale buyers found themselves with a contract price that was much higher than the current value of the unit. The builders refused to renegotiate the purchase contracts, and their banks refused to grant pre-arranged mortgages for the original purchase price. Many buyers were forced to either default—and lose their money—or find additional funding elsewhere, at significantly higher interest rates.

If you're purchasing a freehold home, keep in mind that purchasing at the right time of year can also save you tens of thousands. For instance, in the Greater Toronto Area, the summer is the best time to shop for a new development, says Garrison. "People are on vacation in July and August and don't have time to look for houses. When things slow down for a builder you have more bargaining power as a buyer." Another good time to look is in December and January, but by mid-February activity starts to pick-up, says Garrison, and deals are taken off the table.

In Vancouver's Lower Mainland the opposite is true: real estate and new home purchases are typically hot in the summer and slow down significantly over the rainy months of November and December. Each local market has its own cycle, so it's best to talk to an experienced realtor. **EM**