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**Mohamed Dhirani & Sayyeda Khatau**

107 Leslie Avenue  
Barrie, ON L4N 9P2

**First Notice – (s.5(b) Addendum)**  
**UNAVOIDABLE DELAY EVENT HAS OCCURRED**

TO: **Mohamed Dhirani & Sayyeda Khatau, (the Purchaser)**

FROM: **BELLAIRE PROPERTIES INC. (the Vendor)**

HOME: **LOT NO. 033, Plan 51M-1088, Harrington Street, Town of Innisfil**

RE: **Purchase Agreement dated the 3<sup>rd</sup> day of January 2022, including Addendum, and amendments, if any (the “Purchase Agreement”) relating to the Property**

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The terms of your Purchase Agreement (see Addendum) permit the Vendor to extend the date of closing and other critical dates in certain circumstances, including where there has been an event and/or loss of construction time which amounts to an **“Unavoidable Delay.”**

**PLEASE NOTE THAT:**

1. An “unavoidable delay” event has occurred which may delay completion of your home. The specific “Unavoidable Delay” trigger event is as follows: **COVID-19 Pandemic**

The Pandemic was declared on the 11<sup>th</sup> of March 2020.

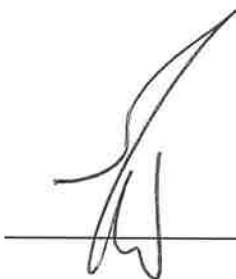
It **may affect** timing of delivery of your home in this way:

Impacts, if any, of this pandemic, will likely affect the construction and/or delivery schedule of any new homes being constructed, etc., this may include labour or materials supply disruptions, governmental permits and/or inspections may not be available.

2. It is possible that the pandemic may affect the completion and/or delivery scheduled of the above property.

3. You should be aware that the delay in completion of your home will include the combination of two (2) periods of time. The total delay will include both:
  1. The period of time for direct impacts of the pandemic, but also,
  2. Any additional period of delay due to after-effects cause by the pandemic which are beyond the Vendor's reasonable control (the "Remobilization Period")
4. It is difficult at this stage to be certain if or how long the total delays may be and thus how the construction schedule for your home will be affected.
5. As more information becomes available, we will keep you informed of developments.
6. Enclosed is an information sheet prepared by Tarion warranty Corporation with helpful information

DATED This 16<sup>th</sup> day of February 2022

  
Bellaire Properties Inc.  
\_\_\_\_\_  
Authorized Signer Officer

\*An "**Unavoidable Delay**" means a strike, fire, explosion, flood, act of God, civil insurrection, act of war, act of terrorism or pandemic, plus any period of delay directly caused by the event, which is beyond the reasonable control of the builder and is not caused or contributed by the fault of the builder.

**ADVISORY FROM TARION TO HOMEOWNERS AND BUILDERS  
ON COVID-19 PANDEMIC: PRE-DELIVERY INSPECTIONS  
AND DELAYED CLOSINGS**

The health and safety of our people, homeowners, builders, and others is a top priority for Tarion. Due to the recent increases in COVID-19 cases in the province, health authorities are continuing to advise individuals and businesses to take measures to reduce interactions. In support of the public health directive, we are setting out the following advisory:

*Pre-delivery Inspections (PDI)*

The PDI is typically a surface review of the home by the builder and the home buyer before possession or occupancy in order to document the state of the home and identify any items of damage. It is also an opportunity for the builder to explain the home's systems to the home buyer. It is important to remember that a (PDI) is not a health and safety inspection or structural inspection of the home for the purpose of occupancy. The PDI is separate from municipal inspections.

In the warranty process, the PDI may be helpful to resolve a dispute about an item of surface damage (such as scratches or dents) where it is unclear if the problem was caused by the builder before possession/occupancy or the homeowner after they took possession/occupancy and began living in the home.

Given the present health circumstances, we do not consider it absolutely necessary that the PDI occur prior to a closing in the presence of both the builder and the homeowner. However, it is Tarion's position that:

- in-person PDIs can happen if participants adhere to provincial health and safety and physical distancing guidelines,
- both parties agree to the conditions under which the PDI would be carried out,
- if one or both parties do not consent to an in-person PDI, we recommend that builders and homeowners each conduct their own separate reviews of the home.

In the event that both parties do not consent to an in-person PDI, we recommend that builders and homeowners each conduct their own separate reviews of the home.

Builders should complete their own review of the home or unit prior to the homeowner taking possession or occupancy and document the condition of the home. The homeowner should conduct their own "delivery" inspection as soon as reasonably possible after taking possession and document as best they can (including photos and/or video) any evident deficient work or materials, any missing or incomplete items or damages which they discover and believe were caused prior to when they took possession or occupancy.

The records of the homeowner and builder can serve as evidence of the state of the home close to occupancy and may be helpful in the event a dispute arises later as to whether an item of damage was caused by the homeowner or builder.

The PDI form is not a Tarion claim form, so if an item is not noted on the PDI form this does not necessarily impact its warranty coverage. If a homeowner notes an item on their 30-day form which is not on the PDI, the item noted will still form part of their warranty claim. The fact that it was not listed on the PDI will be relevant if it is an item of damage such as a chip in a countertop that may have occurred after possession. In this case, it will be helpful for the homeowner to show that they noted the damage as close to taking possession or occupancy of the home as possible as noted above, in the event that the claim is not remedied by the builder and the matter comes to Tarion for resolution.

We urge all parties to approach the occupancy of the home and handling of the PDI in a reasonable way in light of the current health situation in the province.

### *Delayed Closings*

If a new home is in the midst of construction at this time, it is very possible that the pandemic will cause delays in the delivery of the home.

Under the unavoidable delay provisions of the Addendum (which forms part of the purchase agreement), the builder may be entitled to unilaterally extend critical dates. However, the builder must follow the rules set out in the Addendum to do so. Builders should follow the procedures outlined in the *Information Sheet for Builders: COVID-19 -- Possible Effects on Construction Schedules for New Homes*.

If the pandemic results in, for example, materials shortages, work stoppages or unavailability of governmental permits or approvals that affect timing of construction or delivery of a new home, then in order to be allowed to extend the closing or occupancy date, the builder must send out two notices described below.

The **First Notice** is a written notice to the purchaser(s) setting out:

- 1) A brief description of the Unavoidable Delay (in this case likely impacts associated with the pandemic that will affect the delivery of the home); and
- 2) An estimate of the duration of the total delay (not necessary if an estimate is not practicable).

Once the direct impacts of the pandemic are known, then a builder must look at the facts in connection with the home and determine whether or not there is any additional delay due to the pandemic. In other words, in addition to the period of the direct impacts of the pandemic itself the builder and their advisors and contractors must determine if there is any additional "period of delay directly caused by the pandemic." In this Advisory, this is called the **Remobilization Period**. Note that it is not always easy to estimate the additional time which is likely to be lost as a result of a pandemic and which accrues after the direct impacts of the pandemic itself. There may, for example, be a backlog of work to be done by trades, supply disruptions and backlogs

of municipal inspections. The builder may need some time to assess the Remobilization Period and total Unavoidable Delay Period. As a “rule of thumb,” if the home is affected by the pandemic, it is reasonable for the builder to take 30 days (or more if justified) to assess the **Remobilization Period**.

After the direct impacts of the pandemic are over, and the full delay period is known, a second notice must be sent. The timing for sending the **Second Notice** is not until the builder has determined both: 1) the direct impacts of the pandemic are over; and 2) the length of the **Remobilization Period**.

The **Second Notice** to the purchaser must be in writing and include the following:

- A brief description of the Unavoidable Delay event (i.e., the pandemic);
- The end date of the Unavoidable Delay Period (i.e., the aggregate number of days of the direct impacts of the pandemic itself plus the **Remobilization Period**;
- The new critical dates.

**Please Note:** The Critical Dates listed in the Addendum can only be extended by a period up to the length of the Unavoidable Delay Period, (i.e., the period of direct impacts of the pandemic time plus the **Remobilization Period**).

If the home is affected by the pandemic and the builder follows the rules set out in the Addendum and summarized above, then the builder can unilaterally extend Critical Dates for your home (for up to the **Unavoidable Delay Period**).

While the builder can extend the current and future Critical Dates originally set out in the Addendum, the builder cannot reset the original timeline framework in the Addendum. For example, if the upcoming next critical date is the Second Tentative Closing Date or Firm Closing Date, the builder cannot go back and reset to a First Tentative Closing Date.

#### *Other Concerns or Questions*

If you have any concerns or questions, contact Tarion's Customer Service team at 1-877-982-7466 or email [covid19@tarion.com](mailto:covid19@tarion.com)

We are continuously monitoring information from official health authorities and planning and adjusting for business continuity in an evolving environment.

**Important Note:** *The information contained in this advisory is intended for general guidance and does not constitute legal or other professional advice. The reader is advised to seek legal advice from their own legal counsel to address their particular circumstances.*

If you have further questions about the extended repair periods, please contact our Customer Service team at 1-877-982-7466 or email [covid19@tarion.com](mailto:covid19@tarion.com).

## **Tarion's operations**

Throughout the COVID-19 outbreak, Tarion has been taking various precautionary measures and adjusting our operations to ensure the health and safety of our employees as well as homeowners, builders and the greater community. We are making every effort to ensure this situation does not impact our customer service and support for both homeowners and builders.

At this time, due to the Government of Ontario's provincewide shutdown that requires individuals and businesses to take measures to minimize interactions and maintain physical distancing, our corporate office will therefore remain closed for the foreseeable future and the majority of staff will continue working remotely. Any staff or visitors who must attend the corporate office will be required to undergo COVID-19 screening. Upon arrival at the building, visitors must contact Corporate Services via phone at 416-229-3844 ext 3305 or email [corporateservices@tarion.com](mailto:corporateservices@tarion.com) and wait in the building lobby for a representative of Corporate Services to conduct a screening questionnaire, collect information for contact tracing and escort them to the office.

## **General Advisories**

- **Advisory for Homeowners & Builders - Updated Health & Safety Measures - October 30, 2020**
- **Advisory for Homeowners & Builders - Pre-Delivery Inspections & Delayed Closings - October 30, 2020**
- **Guidance for Repairs during COVID-19 - October 30, 2020**
- **Guidance for Pre-Delivery Inspections during COVID-19 - October 30, 2020**
- **Advisory on health and safety precautions for Virtual and In-person Inspections/meetings - October 20, 2020**
- **Advisory for Homeowners & Builders: Building Material Shortages - August 17, 2020**
- **Advisory for Homeowners & Builders: Reinstatement of Timelines - July 6, 2020**

## **Resources for Homeowners**

- **COVID-19 Pandemic Response: Information for Homeowners**

## **Resources for Builders**

- **COVID-19 Pandemic Response: Information For Builders**

## **Notices for Condominium Corporations & Field Review Consultants**

- **COVID-19 Pandemic - Advisory for Condo Corporations & FRCs - Performance Audits, B19 reports, CE**

# Tarion's Response To COVID 19

## December 21, 2020 Update

The health and safety of homeowners, builders, and others is a top priority for Tarion. As the number of COVID-19 cases in the province continues to change, we are closely monitoring the current provincial and regional health and safety guidelines and making adjustments to our practices as needed. Information on this page is updated whenever changes are made.

**The Government of Ontario has announced a provincewide shutdown that will go into effect as of Saturday, December 26, 2020, at 12:01 a.m.** To find out more about the provincial COVID-19 provincewide shutdown please visit [here](#).

It is Tarion's reading of the government framework that construction activities and related services, including repairs are considered essential services and therefore are not prohibited. However, builders must:

1. Make sure both builder representatives and homeowners are comfortable proceeding with the repairs.
2. Ensure proper health and safety measures are in place. Specific guidelines can be found on Page 5 of the provincial government's **Provincewide Shutdown document**.

To help address possible health and safety concerns Tarion has extended repair periods for homes based on the initial date of the lockdown orders in each region (taking into consideration the holiday period):

- 65 days for Toronto and Peel Region
- 47 days for York Region and Windsor-Essex County
- 30 days for all other areas in Southern Ontario
- 14 days for Northern Ontario

Tarion is making this change to help minimize transmission of the virus. These extended repair period will allow builders the flexibility to postpone repairs during this time, except for emergency and health and safety issues, or to allow builders more options for scheduling trades to minimize the number of homes they enter per day.

Alternatively, if homeowners and builders are willing, they can enter into a written agreement to identify how and when the repairs can be completed in a safe way that is consistent with the health and safety guidelines endorsed by the province. Those agreements should be provided to Tarion so that the timelines can be formally adjusted.

If you have questions about the provincial shutdown and impacts to your business, please call the provincial governments Stop the Spread Business Information Line at 1-888-444-3659.