

NOTICE OF ADMINISTRATIVE PENALTY

COURT FILE NO. _____
COURT Court of Queen's Bench of Alberta
JUDICIAL CENTRE Edmonton
APPLICANT The Crown in Right of Alberta
RESPONDENT Gurka Homes Ltd.
ISSUING AUTHORITY Registrar, New Home Buyer Protection Act

Clerk's Stamp

Person Liable to Pay Administrative Penalty: Gurka Homes Ltd.

Amount of the Administrative Penalty:

Daily Amount: **\$500 per weekday for 20 weekdays, or until the contravention is remedied.**

Daily amount commences on **October 15, 2015**

To remedy the contravention, Gurka Homes Ltd. is hereby required to:

1. Obtain warranty coverage for the New Home as defined in paragraph 3, and
2. Provide notice to the Registrar
 - a. that the warranty coverage has been obtained for the New Home, and
 - b. of the name and contact information of the warranty provider providing home warranty coverage for the New Home.

At either email: HomeWarranty.inquiries@gov.ab.ca
Or by telephone: 1-866-421-6929

Clerk's use only
Administrative Penalty amount as of date of entry:
[For calculation, refer to Registrar's affidavit, to be filed]

Reasons for Administrative Penalty:

3. This administrative penalty relates to the new home located on the land legally described as Lot 7, Block 4, Plan 1026741, which has the municipal address 496 Reynolds Wynd, Leduc Alberta (the "New Home").
4. Gurka Homes Ltd., acting as a residential builder under the *New Home Buyer Protection Act*, SA 2012, c N-3.2 (the "Act"), registered the New Home in the registry called the New Home Buyer Protection System on June 13, 2014. Proof of warranty coverage was confirmed by Blanket Home Warranty – Aviva, under policy number AVBHWA1087-A01.
5. The building permit for Gurka Homes Ltd. for the New Home was issued on August 1, 2014.
6. Warranty coverage for the New Home was de-enrolled by Blanket Home Warranty – Aviva, effective October 24, 2014. Blanket Home Warranty – Aviva provided notice of the same to the Registrar. The New Home Buyer Protection System now shows the warranty coverage for the New Home as "withdrawn".
7. Blanket Home Warranty – Aviva notified Gurka Homes Ltd. of the cessation of warranty coverage for the New Home in a letter dated October 24, 2014 – which was received by Gurka Homes Ltd. on December 1, 2014. A courtesy letter sent from the New Home Buyer Protection Office (NHBPO) reiterating the above to Gurka Homes Ltd. was received June 8, 2015.
8. The City of Leduc's most recent safety codes inspection, for insulation and vapour barrier of the new home, was conducted on October 21, 2014. The City of Leduc put a hold on the building permit on June 24, 2015, when NHBPO notified it of the cancellation of the warranty.
9. Gurka Homes Ltd. was notified via telephone on June 24, 2015 by staff from the NHBPO that the New Home had no warranty coverage. NHBPO staff advised that building the New Home was not to be continued until a warranty was obtained. On the same date, Paramjit Brar of Gurka Homes Ltd. advised that the New Home was at carpeting stage.
10. Compliance orders ordering stoppage of work, obtaining a warranty and do not transfer title Do Not Transfer Title Order in respect of the New Home were issued to Gurka Homes Ltd. on September 2, 2015 via electronic mail. to an address provided by Gurka Homes Ltd and a compliance officer confirmed the email address with Amarjett Brar.

11. A Compliance Officer with NHBPO conducted a drive by inspection and confirmed that the home's exterior appeared to be finished with a "For Sale" sign displayed in front of the property on September 25, 2015.
12. Compliance officer contacted the realtor listed on the "For Sale" sign confirmed verbally on September 28th, 2015 that the house will be listed on MLS next week once the home is cleaned and one final thing that had to be done was the stairs & railing going from the garage into the home.
13. Section 3(1),3(2), 3(6) and 3(7) of the Act provide:

3(1) A person other than an owner builder shall not build a new home unless the new home

(a) is covered by a home warranty insurance contract that complies with subsections (6) and (7) and

(b) is registered with the Registrar.

3(6) A home warranty insurance contract must provide coverage in accordance with the Insurance Act for

(a) defects in materials and labour for a period of at least one year starting on the date on which the coverage begins,

(b) defects in materials and labour related to delivery and distribution systems for a period of at least 2 years starting on the date on which the coverage begins,

(c) defects in the building envelope for a period of at least 5 years starting on the date on which the coverage begins, and

(d) structural defects for a period of at least 10 years starting on the date on which the coverage begins.

3(7) A warranty provider must offer the option to purchase, at an additional premium, additional coverage covering

(a) defects in the building envelope for a prescribed period, and

(b) defects in other prescribed components of the new home for a prescribed period.

14. The New Home does not have the warranty coverage as required by section 3(1) of the Act and Gurka Homes Ltd. is aware of the same.
15. This Notice of Administrative Penalty is being issued because Gurka Homes Ltd. has contravened the Act and an administrative penalty may be issued pursuant to section 14(1)(a)(i) of the *New Home Buyer Protection (General) Regulation*, Alta Reg 211/2013.

Efforts to Comply:

1. This administrative penalty is being issued to incite compliance with the Act.
2. Section 15(3) of the Act states:

If, in the opinion of the Registrar, a person who is subject to an administrative penalty under subsection (2)(b) is taking reasonable measures to remedy the contravention or failure to comply, the Registrar, in writing, may suspend the application of a daily penalty on any terms and conditions the Registrar considers appropriate.

3. Gurka Homes Ltd. may contact the Registrar with respect to efforts being made to remedy the contraventions set out in this Notice of Administrative Penalty.

Payment Information:

Gurka Home Ltd. may pay this administrative penalty by cheque or money order payable to *the Government of Alberta*. Payment may be sent by mail to:

Registrar of the New Home Buyer Protection Office
16th Flr., Commerce Place,
10155- 102 Street,
Edmonton AB T5J 4L4

Right of Appeal:

Section 17 of the Act provides a right to appeal a notice of administrative penalty within one month of receipt by

- (a) filing a notice of appeal with New Home Buyer Protection Board, 15th Floor, Commerce Place, 10155 - 102 Street NW, Edmonton, Alberta T5J 4L4 (<http://nhbpb.ca> ; telephone: 780-427-4864);

- (b) paying the prescribed appeal fee of \$250; and
- (c) providing an irrevocable letter of credit in the amount of the administrative penalty as required by section 15(7)(b) of the Act.



Monte Krueger
Registrar, New Home Buyer Protection Act
Alberta Municipal Affairs

WARNING

Failure to either pay this administrative penalty, or exercise a statutory right of appeal will result in the filing of this Notice Administrative Penalty with the Court of Queen's Bench, and proceeding on this Notice of Administrative Penalty as if it were a judgment of the Court.