

# Homebuyer's regret: Should there be a cooling-off period for buyers in a hot market?

The province is planning to consult on a cooling-off period for pre-construction homes that would give buyers a chance for sober second thought.

By [Tess Kalinowski](#) Real Estate Reporter  
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It's the biggest financial investment you're ever likely to make and you've spent years saving and dreaming about buying a house. But you only have a small window to decide if this is the right home for you because there are 10 people behind you ready to snap up that house and a sales agent holding the pen for you to sign the agreement or offer.

It's a common scenario in a hot GTA housing market. But in the cold light of day, it's inevitable that some home buyers leave the transaction with questions and regrets.

This year British Columbia granted home buyers the right to rescind an offer on a home within three business days.

Now Ontario is considering a similar cooling off period for pre-construction house buyers — an interval for sober second thought on the implications of a pre-construction house purchase, even after they've signed a purchase agreement.

The association that represents GTA homebuilders supports the idea “in principle,” since the Condominium Act already gives pre-construction condo buyers 10 days to reconsider their purchase.

“It's best practice,” said David Wilkes, CEO of the Building Industry and Land Development Association (BILD), pointing to “the magnitude of the purchase and the potential for inflationary pressures in the construction period.”

Consumers need to ask questions at the front end of the purchase, rather than when it's time to close, he said, although the association has questions about the duration of the cooling off period and needs assurance it won't add red tape for builders.

### **What about resale home buyers?**

But what about resale home buyers who are also vulnerable to the swift, often cutthroat competition? The Ontario government isn't talking about a cooling-off period for them. But as bidding wars and bully offers return this spring, some consumer advocates and even real estate experts say a cooling-off window should apply to all home buyers.

They point to British Columbia's new rescission period. It permits a homebuyer to rescind their offer within three business days. The penalty for backing out is 0.25 per cent of the home's purchase price.

John Lusink, president of RealService, the company that owns Right at Home Realty, Condos.ca and MrLOFT.ca, said a cooling-off period makes sense. It is standard in at least six other countries from Australia to Spain where buyers have two to 10 days to back out of a purchase, he said.

“We have it for pre-construction. Why there and not elsewhere?”

Too often, said Lusink, buyers rush in “like a herd of lemmings.” But the next day the deposit cheque doesn't show up because the buyer changed their mind or decided they had rushed into something, or they need to put more money down, or the bank pre-approval isn't as much as they thought.

Karen Somerville of Canadians for Properly Built Homes (CPBH) said a cooling-off period is critical for buyers of recently built houses, who sometimes can't get a home inspection prior to the purchase.

“We hear regularly from people who purchased a newly built home from the original owner (a home that is a year or two old) but they couldn't get a home inspection from a private home inspector so they went ahead and bought it anyway,” she said.

### **Unfair practice for sellers**

Ontario Real Estate Association CEO Tim Hudak says that allowing buyers to back away from a signed offer isn't fair to sellers. It would leave them vulnerable to speculators and cost precious time and money if a home has to be re-listed.

“It may cause other buyers to think something’s wrong with the property. Properties that go back (on the market) tend to be seen as stale and discounted in the marketplace,” he said.

In a hot Toronto market, a seller is likely to get another offer. But Hudak said, “Any sensible real estate policy should work both in up markets and down markets, in big cities as well as small towns.”

Trevor Koot, CEO of the B.C. Real Estate Association (BCREA) said his association is still waiting on data to show how often the rescission period is being used since its introduction in January and how it is being used.

If an offer comes in at the start of a long weekend, the B.C. regulation requires that the purchaser have three business days to back out. “The seller is sitting on pins and needles for an entire week until the next Friday when they know that a deal is firm,” said Koot.

BCREA doesn't disagree that buyers need time to consider their offers but it had recommended putting that time on the front end of the deal by making it mandatory for sellers to list for at least five days, cutting out the prospect of bully offers.

That would have made the property available for viewings and, Koots said, “everybody could take a breath and do the work up front. It was more equitable to both buyer and seller.”

There have been reports that the new rescission clause for B.C. transactions is being abused, said Karen Yoelvski, CEO of corporate brokerages at Royal LePage.

Although the problem isn't believed to be widespread, “in some cases particularly sophisticated buyers have used the clause to essentially tie up

inventory for a few days,” she said. Effectively, buyers can put a property on hold while they continue shopping around.

Yoelvski said a cooling-off period isn't likely to alter real estate market dynamics. It is still unlikely that buyers are going to suddenly start waking up and withdrawing offers especially in a competitive market where they're happy to secure a home. If they did rescind, they would probably buy another home.

There's nothing wrong with giving buyers some breathing room, she said. It's just that B.C.'s model is “one-sided,” in that it prevents sellers from moving ahead on their next purchase.

“It gives buyers carte blanche to walk away from a property. No reason is required and the penalties are quite low. Sellers, on the other hand, are tied up, which is particularly troubling in a low inventory market like we're seeing. They don't know if they have a firm deal in hand,” she said.

Toronto lawyer Michael Carlson said he especially favours protections for buyers in the pre-construction housing market where they are subject to high pressure marketing tactics and sales contracts rigorously designed to maximize builders' advantage.

“Anything that provides people the ability to look at their finances without being influenced by pressure, sales is good by nature,” he said.

“There are so many bad things that can happen to a would-be purchaser, I feel that just slightly pushing back on that type of situation would be consumer protection,” said Carlson.

Queen's Park hasn't said when consultations on the cooling off period will take place.