

Ontario has a new rule to fight illegal home sales by rogue developers. It could end up punishing some buyers

Toronto Star – Updated Feb. 14, 2025 at 12:49 p.m. Feb. 12, 2025

By [Sheila Wang](#) Investigative Reporter

In 2021, Talib Baweja handed over a \$150,000 deposit for a house to be built near Wasaga Beach.

The land was bare, but soon, there would be a subdivision, which would include a four-bedroom vacation home where Baweja could spend the summers with his family.

Baweja was buying a dream. He had no idea the homebuilder was not authorized to sell it.

Three years later, the project went into receivership, with nothing to show for the more than \$14 million the builder has collected in deposits. Even with the maximum deposit coverage by [Tarion](#), Ontario's protection agency for new home buyers, Baweja would still be out more than \$70,000.

"It just hurt us so much emotionally and mentally that we don't feel safe with our assets," Baweja said.

In Ontario, it is [illegal to sell new homes](#) without a licence from Ontario's [Home Construction Regulatory Authority](#) (HCRA) and without receiving approval from Tarion to enrol the home in the warranty plan. The requirements are supposed to be part of the checks-and-balances to make sure homebuyers are handing their savings over to a builder they can trust.

But there has been a wave of homebuilders allegedly playing fast and loose with these rules — or deliberately breaking them. And it's not just homebuyers like Baweja being left in a bind. The surge in illegal sales threatened to push Tarion to a breaking point.

'Historic increase' in deposits lost in illegal home sales

Faced with a "historic increase" in deposits lost in illegal sales in 2023, the protection agency warned it might not be able to afford to cover the homebuyers' losses at the current rate.

In a bid to address the problem, Tarion introduced a controversial new measure to require purchasers to notify the agency after buying a new freehold home. Those who fail to do so may end up getting less deposit coverage if things go awry.

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Tarion says there is currently no way for the consumer protection agency to independently monitor if a builder is doing illegal sales — and rogue builders cannot be trusted to self-report.

To critics, the problem of illegal sales is the result of authorities' failure to proactively police the industry, too often reacting only after a project goes belly-up and the consumers' money has vanished.

The HCRA says that combating illegal building and selling is a top priority and its enforcement is impactful in preventing and deterring future harm and bad behaviour.

Tarion, as the warranty backstopper, says it regularly shares information with the HCRA to support its oversight of the industry. The new measure, Tarion says, will allow it to identify illegal sales sooner to better protect consumers.

Instead of taking aim at the builders breaking the rules, critics say Tarion's new initiative could punish consumers who are already under stress navigating the turbulent housing market.

"It's not our job as consumers to do the regulator's job," said consumer advocate Barbara Captijn.

"I don't own this problem of a builder not upholding the law, but Tarion is now making it my problem as a purchaser."

'What happened while you were sleeping?'

The HCRA said it started investigating [Sunrise Homes](#), the company behind the project Baweja bought, in October 2023 when it became aware of the financial problems with the developer from a news report.

There were signs of trouble with the company before then. Two years earlier, Sunrise Homes defaulted on multimillion-dollar loans and put a townhome project in Markham under receivership. In 2021, Sunrise's directors, Sajjad Hussain and Muzammil Kodwavi, were accused by the receiver of improperly diverting more than \$10 million intended for the same Markham project.

Michael Doyle, a lawyer from a firm representing Sunrise Homes, told the Star that the company endured a "perfect storm of disruptions" during the pandemic and faced financial challenges outside of their control. Sunrise was and remains committed to delivering the units to the purchasers, he said.

In Ontario, a builder is required to renew their licence every 12 months with the HCRA. In the renewal process, the regulator is expected to assess the builder's financial viability, including history of bankruptcy and their status in fulfilling Tarion obligations.

The HCRA renewed a number of licences under the Sunrise Group since the receivership in Markham in 2021 and issued new licences for two Sunrise-related companies.

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Over the past year, the HCRA said it has expanded their investigations team, and is using all available regulatory tools — from freezing assets to laying charges — to curb illegal activity.

“But what took you so long?” Baweja asked. “What about what happened while you were sleeping?”

By failing to pick up on the warning signs, the HCRA let the problem grow, said consumer advocate Captijn. By the time the regulator stepped in, the damage was done and the homeowners lost their deposits.

“Once the milk has been spilled on the table, they’re trying to get it back into the bottle,” she said.

In fall 2024, the regulator refused to renew the licence for two companies in the Sunrise group. The HCRA also moved to revoke three other licences affiliated with the company. After the HCRA issues such “notices of proposal” to revoke, builders have 15 days to challenge the regulator’s decisions. Sunrise is appealing all three of them.

A lawyer for Sunrise said the builder did not receive the notices of refusal and was unable to appeal them. The other three licences remain valid while the appeal is ongoing.

The HCRA accused the developer of knowingly selling and building homes without Tarion’s approval, failing to demonstrate financial viability, and not complying with inspections.

According to listings compiled from its official websites and real estate sites, the Sunrise group has publicly marketed more than 600 pre-construction homes spread out in more than seven projects across Ontario over the past six years.

At least three projects were sold illegally in 2021 and 2022, the HCRA alleged.

In one of Sunrise's projects called Soba Towns in Barrie, the developer has been accused of violating several rules. It first sold homes without approvals from Tarion and without a licence, and then started construction without enrolling with Tarion's warranty program, HCRA alleges. When Tarion issued a warning to the developer, Sunrise allegedly continued to sell and build.

Selling homes without approval was 'calculated risk'

Sunrise Acquisitions (Patterson), the company responsible for SOBA Towns, has appealed the HCRA's refusal to renew its licence to the Licence Appeal Tribunal (LAT).

Doyle said HCRA's refusal was "unfortunate and wrong-headed."

The company "wants to do right by its purchasers and new homeowners," he added. "Sunrise has great respect for its regulatory regime, and hopes to resolve these issues with the HCRA so that it may return to [its] business."

Sunrise Patterson is licensed and has obtained approval from Tarion, said another lawyer from the same firm, Jillian Siskind, adding that an outstanding issue was the negotiation of "a new security requirement unreasonably imposed by Tarion late in the process."

Directors of Sunrise Homes did not respond to questions from the Star.

Sajjad Hussain, CEO of Sunrise Homes, previously told CBC that the company had been selling homes without first getting Tarion's approval for at least 15 years, calling it "calculated risk."

"Usually, we register once we start construction, which is probably not the right way to do it. You have to register the time of sales," Hussain was quoted in a CBC article. "We've been doing this practice for the last 15 years, 20 years probably."

Tess Lin, a spokesperson of the HCRA, said Hussain's comments "are concerning and speak to the HCRA's need to continue its important work to hold builders of new homes to professional standards, protect the public interest, and educate consumers so they can make informed decisions when purchasing a new home."

Sunrise lawyer Siskind said, "This is not a case of an illegal builder that attempts to avoid the law by building and selling new homes and avoiding Tarion and the HCRA altogether, which is a common and unfortunate practice."

She added that while some homes may have been sold before obtaining the required authorization, the approval process was underway. "Sunrise Group acknowledges and understands that the registration and enrolment processes need to occur prior to sales and construction of homes. ... Sunrise Group is committed to rectifying their practices, where necessary, so mistakes of this nature will be avoided in the future."

Sunrise has joined a group of larger developers allegedly caught selling homes without the proper authorization in recent years.

StateView Homes collected tens of millions of dollars in deposits for more than 450 homes that it did not have authorization to sell. Meanwhile, the HCRA alleged that Mariman Homes sold 108 new homes

between 2016 and 2022 when it was only permitted to build or sell seven. The regulator suspended a number of StateView licences and revoked Mariman's.

STAR INVESTIGATION

[An Ontario developer sold hundreds of homes without the necessary approvals. It was just one of the warning signs of the company's impending downfall](#)

Mariman Homes' Mike Bettiol said he spent more than 30 years forging a good reputation as a builder, having built more than 700 homes without major issue before the HCRA came into force. He declined to comment on the regulator's enforcement against his company.

Stateview Homes could not be reached for comment. Carlo Taurasi, a principal of the company, previously told the Star that StateView always intended to complete all the projects and worked diligently to make sure that it had the required approvals for any projects.

Illegal sales have been a problem more commonly seen among single-unit developments as opposed to larger projects, said real estate lawyer Mark Morris.

But depending on the regulators' next steps, he worries more could be emboldened to break the law.

"What Sunrise Homes had admitted to have done — illegally selling homes for more than a decade — was a direct challenge to Tarion," Morris said.

"If Tarion does not take out every single piece of ammo it has and blows these guys to smithereens. If they do not do that, then it's open season on Tarion and the numbers will spike."

Combating illegal building and sales a top priority, Ontario's HCRA says

The HCRA's Lin said in a statement that Ontario's homebuilding sector is well-regulated, and the vast majority of builders adhere to the rules. The regulator has thorough complaints and investigation processes to identify builders or sellers who attempt to bypass the requirements.

"We also continually monitor several media and social media platforms so that when we see a new concern involving a builder in these spaces, we don't hesitate to investigate further and take appropriate action," she said.

The HCRA has initiated nearly 250 inspections and investigations since 2021, Lin said.

The regulator has taken enforcement actions, from prosecution, compliance orders to monetary penalties on more than 50 homebuilding companies and individuals for selling or building homes illegally in Ontario, according to its database.

The HCRA said it continues to improve its processes, and has implemented regular inspections into all entities related to insolvent builders.

In 2023, the HCRA also introduced a new tool — administrative penalties — which can be imposed on builders up to \$50,000 per contravention. The HCRA may also use the proceeds of the penalties to compensate negatively impacted consumers, depending on the circumstances.

The HCRA would not say how much it has collected through administrative penalties. Without evidence that the regulator is making wrongdoers pay, the penalties amount to little more than "political grandstanding," Captijn said.

Illegal sales pose significant threat to warranty fund

Tarion recently highlighted a dire threat illegal sales pose to its coffers.

Tarion administers the province's new home warranty program and is responsible for paying out deposit claims for home buyers who've been spurned by builders. The deposit for a new freehold home bought after 2018 is covered up to \$100,000 depending on the purchase price.

Since 2023, however, there has been a "historic increase in exposure to deposits collected on illegal sales," Tarion said in a recent discussion paper.

Tarion anticipates this could drain its guarantee warranty fund by \$100 million. To put that into perspective, the total amount of deposit claims paid from 2005 to 2021 was about \$15 million, just under \$1 million per year.

Unlike construction warranty coverage in which Tarion can first compensate the homebuyers and then recover the money from the builder, deposit losses often take place when the builder is going through insolvency, and the possibility the agency can recover its payouts from the builder is low.

Although the threat of losing their licence may deter many builders from breaking the rules, "that deterrent may not always be effective especially in extreme market conditions, including the market conditions that are occurring now," Tarion's paper reads. "The potential exposure to illegal deposits is therefore effectively unlimited and unquantifiable."

If no mitigation was put in place, Tarion spokesperson Andrew Donnachie said, "Tarion might have been forced to consider removing deposit protection entirely for all new home buyers, or from purchasers who purchased from a builder acting illegally."

To identify illegal sales earlier in the process, Tarion recently changed its deposit policy by requiring purchasers of new freehold homes to notify the agency within 45 days after entering into a purchase agreement.

If your problem is illegal builders, why are you seeking to further regulate the activities of the buyers?

Consumers who comply with the requirement would see no impact to their current coverage. Those who fail to do so will still be covered by Tarion through a \$10-million special fund, but consumers may face reduced deposit coverage depending on how much in claims Tarion receives to the special fund.

Tarion's Donnachie said the special fund is a safety net for purchasers who fail to provide notice, and it will "only affect a small number of purchasers, if at all."

The new requirement was "born of a reactive system," real estate lawyer Morris said. "You are claiming to be the protector of Ontarians. Where are you on the proactive enforcement?"

Consumer advocate Captijn agrees, saying the "wrong-headed" change will not actually prevent illegal selling of new homes.

She said the new requirement's formula to calculate deposit coverage is also difficult for consumers to follow, and seems to penalize consumers instead of illegal builders.

For example, a freehold homebuyer who puts down a \$100,000 deposit for a \$1 million home but doesn't notify Tarion of the purchase can only be reimbursed \$50,000 if the agency received \$20 million in total claims to its special fund over the course of the calendar year.

“If your problem is illegal builders, why are you seeking to further regulate the activities of the buyers? It doesn’t make sense to me,” Captijn said.

Real estate lawyer Morris, who described the requirement as “not consumer-friendly,” said the Tarion’s rules have always been complex and convoluted “by design.”

Consumers can provide notice of their purchase agreements with Tarion using “an easy, online portal” in order to ensure their deposit is protected up to the maximum limit, Donnachie said.

This change will give the agency the ability to verify in real-time that the builder is licensed and legally selling homes and, if it isn’t, Tarion can immediately take action to protect the purchaser, mitigate impacts to the guarantee fund, and alert the HCRA so they can address any illegal activity, according to Tarion.

The new requirement is set to kick in on July 1, 2025.

Editor’s Note: This article has been updated with additional comments from a lawyer representing Sunrise Homes and to clarify that three of their licenses remain in effect while the builder appeals HCRA’s decisions.