

# CAPTIJN: Pre-construction new homes sales in Ontario the Wild West

*Ford's government gave free rein to one person to decide what's right or wrong in builder conduct and performance*

Author of the article:

[Barbara Captijn](#)

Published Nov 09, 2022



Vacant land on a green residential area available for home building construction. Getty Images

The cancellation of new home construction and price escalations after homes have been sold continue to draw the ire of Premier Doug Ford and his two key ministers Steve Clark and Kaleed Rasheed.

The tough talk recently from all three was undoubtedly prompted by the growing number of media reports of cancellations and price escalations. Hundreds of buyers have been left stranded, priced out of the market, after years of developers holding onto their deposit money. Many have been left with few housing options in the context of housing scarcity and affordability challenges, other than their parents' basement.

Ford and his posse have made several memorable speeches, railing against the bad guys, John Wayne-style, vowing to put a stop to these “predatory” practices and protect the victims. These “bad actors,” as the premier called them, may get increased fines, and possible licence suspensions.

The key words are “may” and “possible.” So far, the new regulator, the Home Construction Regulatory Authority (HCRA), has levied no fines for these predatory practices, as the ministers have called them, and no disciplinary action shows on [HCRA's website](#). Many buyers are still

waiting for answers from HCRA, more than ten months after making formal complaints. There's no timeline for the regulator to respond, and cases are complex, they say.

This is a far cry from the immediate crackdown Ford announced.

What's even more confusing to consumers is HCRA's CEO doesn't seem to be giving the same message. Wendy Moir, the CEO and registrar, issued a HCRA Advisory in August this year that says price escalations may be acceptable as long as the builder shows why they're necessary, and acts honestly.

Who's going to admit they're not honest? This seems naive from the regulator of one of the most powerful industries in Ontario.

What's more concerning is that the registrar's opinion is the deciding factor. Regulation 56.1 of the New Home Construction Licensing Act gives the registrar sole authority to decide, based on her opinion, what is right or wrong in builder conduct and regulatory matters. It says: "If the registrar is of the opinion [...] that a licensee has contravened any provision of this Act, the registrar may do any of the following, as the registrar considers appropriate [...]."

May do, not will do, and not necessarily based on facts and evidence. Based on her opinion, and what she thinks appropriate. Meaning unfettered discretion.

Ford's government authored this legislation and passed it. They knew it was weak, and gave free rein to one person to decide what's right or wrong in builder conduct and performance. That's unprecedented for a regulator.

No wonder there's been very little regulatory action posted on HCRA's website. There have been more than 800 complaints placed against builders this year, and 600 last year, but there's very little showing under "[Regulatory Activities and Enforcement](#)." Nothing under the Discipline and Appeals Committee's activities either.

So much for the government's tough talk. A regulator with no bark, and no bite, at the mercy of one person's opinion isn't going to gain the public's trust. Maybe this is part of Ford's overall plan to enable builders to build, build, build, while at the same time keeping consumers believing the government is clamping down on the bad guys.

They must know they've set this regulator up to be ineffective. Laws are only as good as the enforcement which backs them up. Ford must know he's short-changed consumers on this one.

As the cowboys say, speak your mind, but ride a fast horse.

— *Barbara Captijn is a Consumer Advocate*