

September 16, 2024

Barbara Duckitt
Assistant Deputy Minister
Policy, Planning and Oversight Division
Ministry of Public and Business Service Delivery and Procurement
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Delivered via email: NewHomes@ontario.ca

TRREB Comments on the 10-Day Cooling-Off Period Consultation Paper – Ontario’s Regulatory Registry # 24-MPBSD014

Dear Ms. Duckitt,

The Toronto Regional Real Estate Board (TRREB) represents over 75,000 licensed real estate Brokers and Salespersons in the GTA. As key stakeholders in Ontario’s real estate market, TRREB is committed to supporting initiatives that enhance consumer confidence, promote fairness, and uphold the integrity of real estate transactions across the province. TRREB appreciates the opportunity to provide feedback on the proposed 10-day cooling-off period for sales of newly built freehold homes.

Support for a Cooling-Off Period for New Freehold Homes

TRREB recognizes the government’s efforts to enhance consumer protection in the real estate market, particularly for buyers of newly built freehold homes. We support the 10-day cooling-off period for these transactions, as it provides consumers with a valuable opportunity to secure financing, review contractual terms, and seek professional advice. Most importantly, this protection helps address the power and knowledge imbalance between buyers and real estate developers.

Generally speaking, buyers of new homes are not represented by anyone during the transaction process while builders and developers have dedicated lawyers to draw up contractual terms that favour the builder. Furthermore, builders’ sales representatives are not captured under the same regulatory oversight and rules that registered licensed agents have to comply with under the *Trust in Real Estate Services Act* (TRESA) administered by the Real Estate Council of Ontario (RECO), potentially leaving buyers unprotected.

This policy aligns with consumer protection measures such as the existing cooling-off period for pre-construction condominium sales under the Condominium Act, 1998. It offers peace of mind to buyers making substantial financial decisions and ensures they are not pressured into agreements without proper due diligence.

Problems Caused by Extending the Cooling-Off Period to Resale Homes

However, TRREB strongly advises against extending the 10-day cooling-off period to the resale market. Resale transactions differ significantly from new construction sales, and imposing such a policy would create several negative externalities:

Market Disruption and Uncertainty: In the resale market, both sellers and buyers are consumers who often depend on a series of interconnected transactions. Introducing a cooling-off period could disrupt this chain, creating unintended consequences. For example, a seller in Transaction A might be forced to withdraw from being a buyer in Transaction B if their sale falls through due to a rescinded offer. This could lead to a cascading effect, causing delays and uncertainty throughout the market.

Financial Impact on Sellers: Sellers in the resale market are typically middle-class families, seniors looking to downsize, or individuals moving up the housing ladder. Unlike developers, these sellers may not have the financial capacity to withstand the uncertainty and potential negative impacts of rescinded offers. A cooling-off period would place an unfair burden on these consumers, potentially harming their financial stability and long-term plans.

Encouraging Speculative Behavior: Evidence from British Columbia, where a similar cooling-off period for resale homes was implemented, suggests that unethical buyers can exploit such a policy. These buyers may make multiple offers and use the cooling-off period to back out if market conditions change or if they find a better opportunity. This behaviour distorts the market, inflates prices, and can deter less experienced buyers from participating, thereby further contributing to the ongoing affordability crisis.

Undermining Transaction Certainty: The cooling-off period undermines the certainty of transactions in the resale market. Properties that remain on the market longer due to rescinded offers could become stigmatized, reducing their attractiveness to future buyers. Sellers may also feel pressured to accept concessions or face difficulties in securing legitimate buyers, leading to an erosion of trust in the real estate system.

Administrative and Operational Burdens: Implementing a cooling-off period for resale homes would increase the administrative and operational burden on real estate professionals. Managing rescinded offers, ensuring compliance with new regulations, and navigating potential legal challenges would divert resources from more productive activities, ultimately reducing the quality of service provided to consumers.

Conclusion

While TRREB's Members support measures to protect homebuyers in the new construction market, we believe strongly that extending a cooling-off period to resale homes would be counterproductive to the government's goal of protecting consumers. Rather, imposing a cooling-off period on resale homes enables unscrupulous speculators to fraudulently game the system and victimize honest buyers and sellers. The resale market operates under different conditions, where buyers and sellers are both consumers in most scenarios. Introducing a cooling-off period on resale homes would disrupt the market, create financial strain, and erode trust among participants.

TRREB commends the Ford government's efforts to address the current market challenges by increasing Ontario's housing supply, providing a mix of housing options, and cutting red tape rather than imposing prescriptive measures that could harm regular consumers and families.

We appreciate the opportunity to provide feedback on this consultation paper and look forward to continue working with the government on measures focused on consumer protection in the real estate market.

Sincerely,



Jennifer Pearce
President
Toronto Regional Real Estate Board