

## Pre-Sale Precautions

“Pre-sale contracts” involve units that are sold before construction is complete – in many cases, before construction even begins. The Real Estate Development Marketing Act requires that a Disclosure Statement be filed with the Office of the Superintendent of Real Estate before marketing begins.

What to watch for:

On August 1, 2007 the Office of the Superintendent of Real Estate published an Information Bulletin summarizing points potential buyers should understand when considering pre-sale contracts, including:

- Proposed developments can be delayed for many reasons, and the market value of a unit may increase or decrease during that time
- If market prices have increased during a delay in construction, the developer may ask a buyer to pay a higher purchase price to extend the original contract or obtain a new contract
- Pre-sale contracts often contain potential termination dates, and prospective buyers should, with the assistance of a lawyer or REALTOR, seek written extensions of their contracts before those termination dates arrive
- There may be restrictions on a buyer’s ability to assign their contract to another buyer before construction completes; in fact, some contracts don’t allow assignments at all
- The contract may allow a developer to substitute equivalent materials or change the layout of the unit or development