

# Steps to Possession

*You're Almost Home!*

**As you prepare to move into your new home**, your Developer is busy registering the Condominium Plan for your development with the provincial Land Titles Office.

**Before a Condominium Plan can be registered**, the local municipality must evaluate the Plan, inspect the property and approve the Plan. This step is beyond the control of the Developer and can take some time.

**If the common property is incomplete** when the municipality inspects it, the municipality calculates the cost to finish the common property to standards established in municipal bylaws. The Developer is required to post a security equal to or greater than that amount so that the municipality has the funds to complete the work should the Developer be unable to do so.

**Assuming that the municipality has approved the Condominium Plan** without requiring changes to it and that all the municipal requirements are met, the Developer can then proceed to submit the approved Plan to the Land Titles Office for registration.





**The Land Titles Office then creates property Titles** for each of the units in the condominium. At the same time, the Unit Factors for each unit are also registered and form part of the legal description of a unit. The Certificate of Title will also disclose any other documents that may affect the Title such as mortgages and easements. Your lawyer can explain these details to you when you meet to review and sign documents.

**This entire process doesn't happen overnight** but that's normal. If you're coming up to the planned Possession Date and the Condominium Plan isn't registered yet, you won't be able to take "Titled" Possession of the property before you move in. But don't worry.

**In the interim,** you can enter into an Interim Occupancy Agreement with your Developer and you can still move into your new home. *(See also page 35)*



# Occupancy Permit & Notice of Possession

*It's time to plan for your move.*

**Your Developer is focused on working with you** and doing everything possible to achieve the projected completion and possession dates for your new home. However, many steps along the way and the amount of time they take are often beyond the Developer's control.

**Once the completion date for your unit can be predicted** by the Developer, you'll be provided with a written Notice of Possession at least 35 days prior to possession.

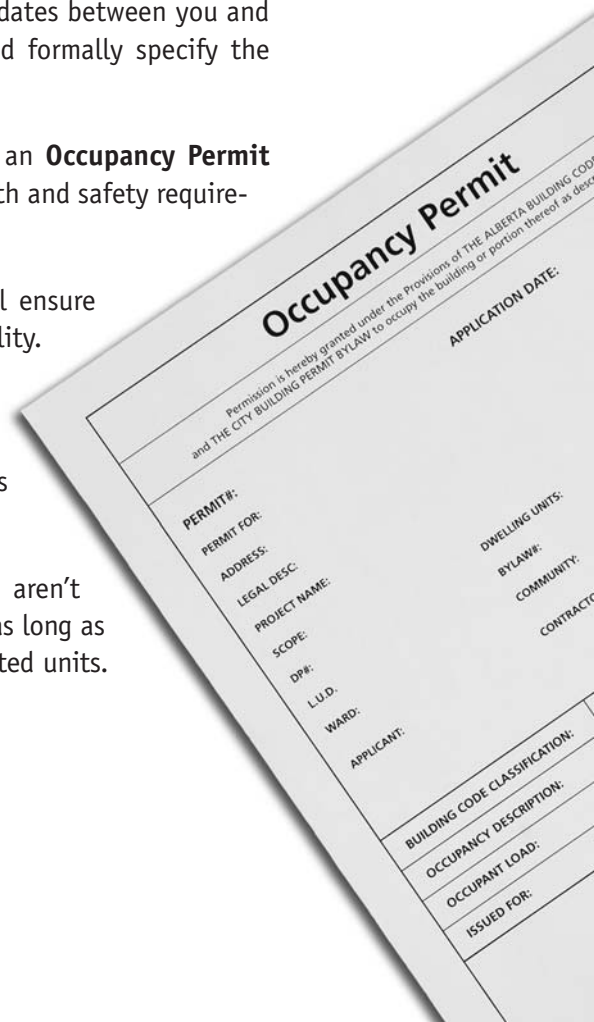
**Regardless of any informal discussions** about possession dates between you and your Developer, the Notice of Possession will officially and formally specify the date when you can move in.

**Before you can move in**, most municipalities must issue an **Occupancy Permit** that acknowledges the residential structure meets local health and safety requirements.

**By the time of your possession date**, the Developer will ensure that an Occupancy Permit has been issued by the municipality.

**Depending on the type of condominium** — such as a high-rise building — the municipality may allow portions of the overall development to be occupied as work is completed.

**So it's possible to move in** even if all the units aren't finished or the common property work isn't complete yet — as long as the municipality is certain there is safe access to the completed units.



# Pre-Possession Inspection

*Before you move in, you have to inspect your home for “defects” and “deficiencies”.*

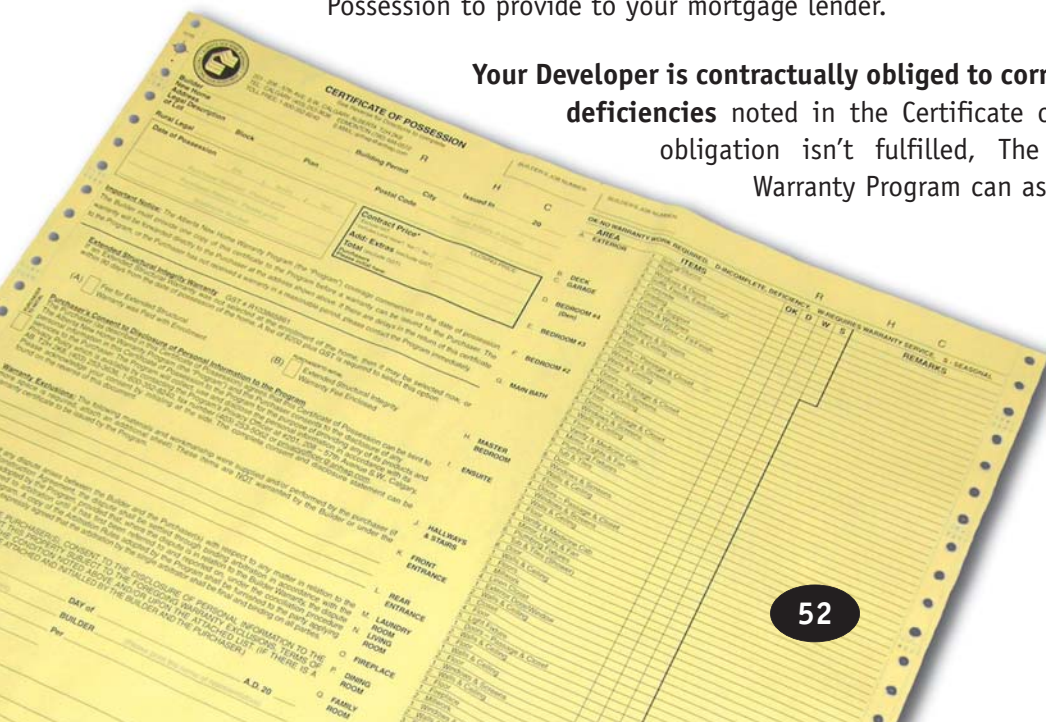
**Your Developer and the building crew work extremely hard** to make sure that your unit is complete in preparation for the day you move in.

**Any flaws in your unit** are typically going to be minor or cosmetic in nature like a scratch or painting mistake that’s easily corrected. These are called **defects**. Things such as a missing light fixture or closet shelves that haven’t been installed yet are called **deficiencies**.

**Before you take possession** and move into your new home, your Developer’s representative will schedule an appointment with you to inspect your unit thoroughly.

**Together, you’ll walk through the home** identifying defects and deficiencies and these will be recorded on a **Certificate of Possession**, which you both sign. The Developer then provides you with a copy and sends a copy to The Alberta New Home Warranty Program. Your lawyer may require a copy of the Certificate of Possession to provide to your mortgage lender.

**Your Developer is contractually obliged to correct valid defects and deficiencies** noted in the Certificate of Possession. If that obligation isn’t fulfilled, The Alberta New Home Warranty Program can assist you.



# Substantial Completion

*Is the Common Property  
“Substantially Complete”?*

*The answer will affect your  
New Home Warranty.*

**“Substantial Completion” means a development is ready** for residents to live in and use. To qualify as being substantially complete, the units and the common property must be ready to be used for the purpose intended.

**Substantial Completion should be assessed and verified by an independent third party** such as an architectural firm, an engineering company or the municipality’s own inspectors. Timing for a verification inspection depends on when the Developer calls for it to happen.

**What if the Substantial Completion Inspection isn’t done** by the time you move in? You have to be aware of the implications.

***The first two issues for you to consider:***

**1** *When will the property be substantially complete and ready for the purpose intended?*

**2** *What is the value of the incomplete work?*

**Let’s say you can move in tomorrow** but the sidewalks, roadways, parking lots and landscaping aren’t complete.

**You’re entitled to hold back some funds** according to the law. The lawyer acting on your behalf can explain what money should be held in trust by the Developer’s lawyer for such things as incomplete work (deficiencies) in the unit, incomplete common property, and for builders’ liens (claims from suppliers and trades people for payment from the Developer).





Lawyers' trust conditions will allow for the release of the money as the work is completed and when the builders' lien period expires without any lien registrations.

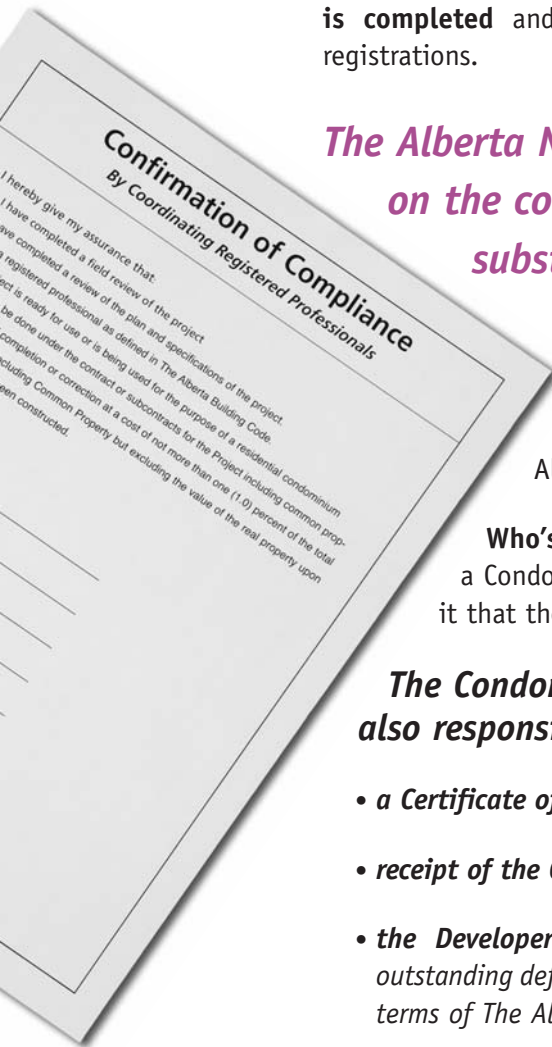
***The Alberta New Home Warranty Program's protections on the common property start on the date of substantial completion.***

If the common property is substantially complete, but there are deficiencies (or defects) as reported in the Substantial Completion Inspection, these must be corrected by the Developer within one year according to terms of The Alberta New Home Warranty Program coverage.

**Who's responsible for ensuring Substantial Completion?** If there's a Condominium Corporation in existence, it's responsible for seeing to it that the common property work is substantially complete.

***The Condominium Corporation is also responsible for ensuring that:***

- *a Certificate of Substantial Completion is issued;*
- *receipt of the Certificate from the Developer is acknowledged, in writing;*
- *the Developer completes the common property work — including any outstanding defects and deficiencies — within the coverage period and per the terms of The Alberta New Home Warranty Program.*





***To fulfill common property warranty responsibilities, the Condominium Corporation must:***

- ***give the Developer written notice of any outstanding common property defects and deficiencies that are still incomplete within 1 year of the substantial completion date as indicated on the Certificate of Substantial Completion;***
- ***give The Alberta New Home Warranty Program written notice of any claim for common property defects and deficiencies coverage within 12 months and 60 days from the date that the common property was verified as being substantially complete.***

**At the first Annual General Meeting of the Condominium Corporation,** control of the Board is usually transferred from the Developer’s representatives to the unit owners.

**When the unit owners take control, the Owners’ Board assumes responsibility** for ensuring that the common property is complete, that the Certificate of Substantial Completion is issued, and that all *common property defects and deficiencies are completed within one year from the date on the Certificate of Substantial Completion.*

**Consequently, there are important questions to be asked** regarding substantial completion and common property warranty coverage — and three important times to ask those questions:

- ***before you purchase;***
- ***as your possession date nears;***
- ***as unit owners prepare to take control of the Condominium Corporation.***

*(See also page 24)*



**It's important for you to ask a series of questions** and to explore the answers.

***Here's a list of things to ask:***

- *What percentage of the common property is complete?*
- *Has a Substantial Completion Inspection been done? By whom?*
- *Has a Certificate of Substantial Completion been issued and, if so, when?*
- *Are there common property deficiencies and defects and, if so, what are they?*
- *Have the Condominium Corporation and the Developer acknowledged the deficiencies?*
- *What is the value of the deficiencies?*
- *Who is responsible for verifying all the work is done within the warranty period — the Developer's Board or the Owners' Board?*
- *Has the Condominium Corporation taken the steps necessary to ensure the work is completed within the warranty period?*
- *Has the Developer completed the defects, deficiencies and attended to the first year warranty issues for the common property?*
- *Has the first year warranty for the common property expired?*

**These are also the kinds of questions** usually asked and answered at the Owners' First Annual General Meeting of the Condominium Corporation if they haven't been dealt with beforehand. (See also page 61, "Owners' Annual General Meeting".)