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## Ontario Building Code and Building Inspectors

Posted by twobyfour - January 26, 2008 3:50 PM

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I am in the process of having the building inspection department of the municipality I live in investigated by the senior managers. They know I am serious about what I am doing. When I got my new home, I could see as an informed consumer the numerous violations of the Ontario Building Code (OBC) and I contacted the building department of the county. Well, I was brushed off like I did not know what things were to be. They treated the builder like he was their employer ...kissed his butt ..but really did nothing for me. My main faults were the installation of the PEX plumbing, the ABS waste water system, and the placement of my floor drain in the basement (no wet seal). I will post that separately.

What I have found out doing all my research, is that municipalities are being held liable for the actions, or in-actions of their building inspectors. Homeowners are taking these towns etc. to court and are receiving judgements against these municipalities because of inadequate building inspections.

Here is one case from Canadians for Properly Built Homes site

Ottawa Judge rules that real estate agent and municipality jointly liable for defective house

An Ottawa judge has found a real-estate agent and a municipality liable in the case of a home that did not meet the Ontario Building Code, and ultimately became uninhabitable.

Justice Charles Hackland awarded the homeowner \$81,425 for loss in value of the property, \$12,000 for mental distress and \$5,000 for out-of-pocket expenses, as well as eight years' interest.

In so doing, Justice Hackland sent a clear and important message to both real estate agents and municipalities in this decision: There is accountability in real estate transactions. Consumers rejoice!

Canadians for Properly Built Homes would like to emphasize the duty of municipal governments, where they have the responsibility for inspections during construction. In this case, the Township of Hungerford was found jointly liable for the damages for failing to ensure that the house complied with the Ontario Building Code and for failing to conduct proper inspections during construction.

This is an important finding given the responses of some municipalities when Code violations have been confirmed in new homes. For example, there have been a number of reports in the media relating to serious problems, i.e., Ontario Building Code (OBC) violations in new home construction in the City of Ottawa over the past years. Even in cases of serious OBC violations, City of Ottawa officials have repeatedly blamed these problems on others, including the builders, the shortage of trades, the shortage of inspectors, etc., and in this way, downplayed its responsibility for ensuring builder compliance with the Code. In addition, when recently advised of systemic issues in a development still under construction, the City of Ottawa took the position that it only looks at individual homes, and does not have a responsibility to do an analysis of the issues being reported to it by homeowners who have experienced problems with their new homes in that same development, e.g., to identify systemic issues, to take appropriate actions to ensure that the finished homes were properly fixed, and to ensure that the same issues were not repeated in future homes in that same project. Justice Hackland's decision noted that once an inspector is put on notice of the possibility that a construction project may be defective, the inspector may be required to conduct a more thorough inspection.

Justice Hackland's decision noted that while the municipal inspector is not expected to discover every building code violation, the municipality will be liable for those defects that it could reasonably be expected to have detected to have ordered remedied.

Judge Hackland also cited the judgment of the Supreme Court of Canada in *Ingles v. Tutkaluk Construction Ltd.*, in which Justice Bastarache said "the legislative scheme is designed to ensure that uniform standards of construction safety are imposed and enforced by the municipalities."

Canadians for Properly Built Homes hopes Justice Hackland's decision will help prompt a change in attitude among municipal officials. It is high time that municipalities take seriously their responsibilities for ensuring Building Codes are met.

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## Re:Ontario Building Code and Building Inspectors

Posted by Mary M. - February 22, 2008 10:44 AM

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It is likely municipal managers will do nothing as they strive to protect fellow union members. Since building inspectors

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cannot be sued, as per the OBC, they'll hide in the municipalities deep pockets and tell you that no defect exists. Get yourself an engineer and a lawyer if you feel this issue is important to you.

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## Re:Ontario Building Code and Building Inspectors

Posted by twobyfour - February 22, 2008 11:43 AM

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Thanks for your response. The problem is now out of the hands of the building department. You can see by my posting, I quoted "case law". My municipality has now passed it on to their legal counsel. Some of the elected representatives are being kept informed, and I know that they do not want the municipality to be libel for the cost of negligence caused by the errors of their building inspectors. All I can say is ..... we will see what happens. A few letters to the right people is a lot cheaper then the engineers, or lawyers cost.

When I first had a issue with the installation of the PEX plumbing, I contacted the code advisor at the Ministry of Housing who looks after Code 7, and got an email from him saying that the PEX piping was to be installed according to the manufacturer's installation Instructions ...and I know by my answers by a senior manager at the municipality "that they, the building inspection department have never contacted the code advisor at the ministry", and this is after telling me, that "they knew nothing about PEX plumbing installation". We will wait and see what happens...

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## Re:Ontario Building Code and Building Inspectors

Posted by Mary M. - February 23, 2008 10:59 AM

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We wrote a letter to the mayor, the chief operating officer, our ward councilman, our representative in provincial politics and our representative in federal politics regarding the Ontario Building Code infractions at our house. No one would help us or cared to come to have a look.

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## Re:Ontario Building Code and Building Inspectors

Posted by twobyfour - February 23, 2008 11:37 AM

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Hi Mary M,

Thanks for the reply, I read your story on your site. All I can say is...we will wait and see. I am in a smaller community then Ottawa, and our elected representatives "may" be on top of the staff then in a larger community. We will wait and see.

ps...did you get my e-mail

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## Re:Ontario Building Code and Building Inspectors

Posted by twobyfour - April 08, 2008 9:38 AM

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Mary M....RE: Norfolk County Ontario You were so correct. The answers I got from the Planning Manager, who supervises the Chief Building Inspector and building inspectors was a non-answer...they didn't address any of my concerns...probably the reason they didn't answer...they would have admitted liability for their procedure in applying the OBC.

I have told by my councillor, that the mayor will back his staff on this issue, so I maybe wasting my time on these issues.

I guess I could write the Ontario Ombudsman and try to explain that there wouldn't be many complaints against Tarion if the municipal building inspectors did their job and applied the OBC properly to new home construction. Most problems I have read about are building code infractions ...if this could be corrected, then maybe 90% of us new home purchasers would not have a problem. The way it is now...the municipality signs off on a house, and you find building code faults, and you mention them to the builder like I did ....all he says is "it meets code"...Then it becomes a municipality problem ...but they will never admit responsibility...because it would make them liable for their actions...or in-actions.

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Maybe it's time to get together a class action against the municipality ....but then you have homeowners who complain, or don't know, but don't want to say anything against the builder because their family assets are involved...and any public outcry would , or might affect the home prices in the area concerned.

As they say....tomorrow is a new day ...we will see what that brings

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## Re:Ontario Building Code and Building Inspectors

Posted by Mary M. - April 09, 2008 1:01 PM

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The truth has a better chance of being revealed when someone is under oath.

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## Re:Ontario Building Code and Building Inspectors

Posted by Bunyak - May 10, 2008 11:28 PM

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Mary M. wrote:

We wrote a letter to the mayor, the chief operating officer, our ward councilman, our representative in provincial politics and our representative in federal politics regarding the Ontario Building Code infractions at our house. No one would help us or cared to come to have a look.

This is what concerns me about the building process. Based on the specs of the house that I'm buying, I strongly suspect that the ventilation system will not meet the OBC for required air exchanges. I originally thought that the municipal inspector would go through the OBC line by line and someone would force the builder to meet code, but I guess I was totally delusional. I'm shocked at how builders can get away with code infractions with practically no recourse for the buyers...

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