

Modular Homes

The Saskatchewan Real Estate Commission has become aware of potential issues surrounding the re-sale of modular style homes that have been affixed to real or leasehold property. The Commission does not have authority to regulate the sale of modular style homes unless they are affixed, and therefore “real estate” as defined by section 2(t) of *The Real Estate Act* (the “Act”).

Municipalities are responsible to confirm that buildings constructed or located within its boundaries are built to the requirements of the National Building Code (the “Code”). Typically, a certification label authorized by or through the Standards Council of Canada establishes that a modular, factory-built, or mobile home complies with the Code.

The Commission has been advised that from 2002 until August of 2010, CSA Standards was not properly accredited by the Standards Council of Canada to inspect and certify modular homes. As such, the certification label, which may be present on a modular home, provides no assurance or guarantee that a modular home manufactured during that time and bearing a CSA Standards mark of approval conforms to the Code.

This lack of appropriate certification can have serious consequences for the owners of these properties. Owners of modular homes may be required to remove units from within municipal limits due to non-conformity with the Code. Further, owners may be required to pay for the cost of renovations and repairs to bring modular units into compliance with the Code. As a result, the value of a modular home may be significantly and adversely impacted by a determination that the unit is not compliant.

These issues, and the potential invalidity or absence of a certification label on a modular home imposes a duty on Registrants, whether representing a seller or a buyer. There are several requirements created by the Act and the Commission Bylaws which make it necessary for sellers, agents, or brokers to research and/or disclose pertinent facts about a property. Sections 714 and 715 of the Bylaws state:

714 - *A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.*

715 - *Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.*

As such, in the interest of public protection, it is imperative that registrants make the necessary inquiries about modular homes, specifically including the year the unit was manufactured and any verification and certification of the unit’s compliance with the Code. A registrant must disclose the potential certification issues to all parties to the transaction, including the potential consequences of the modular home being found incompliant with the Code. A registrant must also recommend that a potential buyer obtain an independent inspection of the modular home before entering into a contract to purchase the unit.