

Wealth

Builders Say Canada's Foreign Buyers Ban is Stopping Construction of New Homes

Developers are warning that the wording of the new rules will have unintended consequences.



A home under construction in Vaughan, Canada. *Photographer: Cole Burston/Bloomberg*

By [Ari Altstedter](#) and [Brian Platt](#)

February 10, 2023 at 2:34 PM EST

Canadian Prime Minister Justin Trudeau's ban on foreign homebuyers is making it harder to build new housing, Canadian developers say.

The wording of the ban, which came into effect at the beginning of this year, unintentionally prevents a broad swath of companies from purchasing vacant land to turn into new housing due to its strict limits on foreign involvement, they say. That's making it harder for the Trudeau government to ease the country's housing crisis – the reason the prohibition was introduced in the first place.

Some developers in Toronto, Canada's largest city, have already called off plans to buy land and build new housing for fear they'll be contravening the ban, according to David Wilkes, chief executive officer of the Building Industry and Land Development Association, an industry trade body.

"I can't believe the intention was to limit supply," he said. "People just don't believe that this could be happening."

The Trudeau government's foreign buyers ban was announced last April as part of a sweeping package of policies to rein in some of the most unaffordable housing costs in the world. The centerpiece of the plan was a promise to double the pace of new home construction to 400,000 units annually over the next 10 years.

Now that it's in place, though, developers say the definitions contained in the act's fine print, or regulations, will hamper the construction of new homes. The act defines residential property not only as completed units, but also as land without any habitable dwellings, so long as it is located in a large population center and zoned for residential use, according to an analysis by Toronto law firm Robins Appleby. And its definition of non-Canadians includes any corporation with more than 3% foreign ownership.

Limited Development

The foreign buyers ban, which will be in place for two years and is officially called the Prohibition on the Purchase of Residential Property by Non-Canadians Act, was meant to address concerns that non-residents were helping drive up home prices. However, data suggest foreigners owned no more than 5% of properties in any major market in 2020, and the rapid price gains seen during the pandemic came at a time when borders were largely shut.

The government's policy is intended to temporarily prohibit "speculative foreign investment in the Canadian housing market" and it is considering "potential additional steps to ensure this measure does not have unintended impacts on communities," according to a statement from Housing Minister Ahmed Hussen's office that did not elaborate on what steps could be taken.

Because many foreign developers operate in Canada, and domestic ones often team up with them for specific projects, or seek investment from overseas, the industry says the act has effectively frozen a broad range of activity.

"The 3% is an absurd level," said Leor Margulies, a Toronto-based real estate lawyer. "It eliminates any type of foreign purchasing of development land, which is just going to restrict supply."

Margulies said he has foreign developer clients who have stopped pursuing new residential projects, and even companies with only minority foreign ownership are stuck on the sidelines.

“It’s irrelevant who builds it – the issue is we want homes for Canadians,” he said. “So if we limit capital and we build less there’s less homes for Canadians.”

Wilkes’s group has brought its concerns to the federal government through the industry’s national body, the Canadian Home Builders’ Association, and has been told the impact on development was unintentional and will be fixed. He said his group is advocating for a complete exemption for the purchase of development land under the ban.

“This needs to happen yesterday because deals are being left on the table,” he said. “It just doesn’t make any sense.”

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