

BROOKFIELD HOMES CORP

Form S-3/A

March 06, 2009

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As filed with the Securities and Exchange Commission on [March 6, 2009](#)

Registration No. 333-156416

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

AMENDMENT NO. 1

TO

FORM S-3

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

BROOKFIELD HOMES CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

8500 Executive Park Avenue
Suite 300, Fairfax, Virginia 22031
(703) 270-1700

(Address, including zip code, and telephone number)

37-1446709
(I.R.S. Employer
Identification No.)

Kim Mackmin
8500 Executive Park Avenue
Suite 300, Fairfax, Virginia 22031
Telephone: (703) 270-1700

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including area code, of registrant's principal
executive offices)

(Name, address, including zip code, and telephone number including
area code, of agent for service)

with a copy to:

Daniel M. Miller

Dorsey & Whitney LLP

Suite 1605

777 Dunsmuir Street, Pacific Centre

Vancouver, British Columbia

Canada V7Y 1K4

(604) 687-5151

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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Indicate by check mark whether the registrant is a large accelerated filer, accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities To Be Registered	Amount to Be Registered	Proposed Maximum Aggregate Offering Price per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Rights to purchase convertible preferred stock	(1)			(2)
Convertible preferred stock	10,000,000 shares	\$ 25.00	\$ 250,000,000 (3)	\$ 9,825
Shares of common stock issuable upon conversion of convertible preferred stock	35,714,286 shares (4)			(5)
Shares of common stock issuable as dividends on shares of convertible preferred stock	110,000,000 shares (4)			(5)
Total Registration Fee				\$ 9,825

(1) Evidencing the rights to subscribe for 10,000,000 shares of convertible preferred stock.

(2) The rights are being issued for no consideration. Pursuant to Rule 457(g) under the Securities Act of 1933, as amended, no separate registration fee is payable.

(3) Represents the gross proceeds from the assumed exercise of all rights issued.

(4) Pursuant to Rule 416 under the Securities Act of 1933, as amended, this registration statement also covers such indeterminate number of additional shares of common stock as may become issuable as a result of stock splits, stock dividends or similar transactions, or as a result of anti-dilution adjustments in accordance with the terms of the convertible preferred stock .

(5) Pursuant to Rule 457(i) under the Securities Act of 1933, as amended, no separate registration fee is payable.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting an offer to buy these securities in any state or jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED MARCH 6, 2009

PROSPECTUS

BROOKFIELD HOMES CORPORATION

Rights to Purchase up to 10,000,000 Shares of 8% Convertible Preferred Stock, Series A, at \$25.00 per Share

We are distributing at no charge to holders of our common stock non-transferable subscription rights to purchase up to an aggregate of 10,000,000 shares of 8% Convertible Preferred Stock, Series A, par value \$0.01 per share. The shares of convertible preferred stock will be convertible into shares of common stock at a conversion rate of 3.571428571 shares of common stock per share of convertible preferred stock, which is equivalent to a conversion price of \$7.00 per share, subject to adjustment upon the occurrence of certain events.

You will receive 0.3735701 subscription rights for each share of common stock owned at 5:00 p.m., New York City time, on _____, 2009, subject to adjustments to eliminate fractional rights. The proceeds from this rights offering will be used for general corporate purposes, including repayment on the credit facility of an affiliate of our largest beneficial stockholder, Brookfield Asset Management Inc. We expect the total purchase price of convertible preferred stock in this rights offering to be \$250,000,000, assuming full participation.

Each whole subscription right will entitle holders of our common stock on the record date, to purchase one share of convertible preferred stock at a subscription price of \$25.00 per share. Subscribers who exercise their rights in full may over-subscribe for additional shares of convertible preferred stock, subject to certain limitations, to the extent shares of convertible preferred stock are available. The subscription rights will expire if they are not exercised by 5:00 p.m., New York City time, on _____, 2009, unless extended.

Dividends on the convertible preferred stock will be fully cumulative, will accumulate without interest from the date of original issuance of the convertible preferred stock and will be payable semi-annually in arrears in, at our election, cash, shares of common stock or a combination of cash and shares of common stock, on the last calendar day of each June and December, commencing on the last calendar day of the first June or December following the date of original issuance of the convertible preferred stock.

You should carefully consider whether to exercise your subscription rights before the expiration of the rights offering. Unless our board of directors cancels or terminates the rights offering, all exercises of subscription rights are irrevocable. Our board of directors is making no

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recommendation regarding your exercise of the subscription rights. The subscription rights may not be sold or transferred.

We may cancel or terminate the rights offering at any time prior to its expiration upon determination of our board of directors. If we cancel or terminate this offering, we will return your subscription price, but without any payment of interest.

The shares of convertible preferred stock and shares of common stock issuable upon conversion of the convertible preferred stock are being offered directly by us without the services of an underwriter or selling agent.

Shares of our common stock are traded on the New York Stock Exchange under the symbol BHS. The shares of common stock issuable upon the conversion of the convertible preferred stock will also be listed on the New York Stock Exchange under the same symbol. Although the New York Stock Exchange has approved the listing of the convertible preferred stock subject to official notice of issuance, its approval is conditioned on there being at least 100 holders of the convertible preferred stock. Therefore, the listing of the convertible preferred stock on the New York Stock Exchange will depend upon the number of our stockholders that exercise their rights, and it will not be possible until after the rights offering has been completed to determine whether or not the convertible preferred stock will be listed on the New York Stock Exchange.

Exercising the rights and investing in our shares of convertible preferred stock and our common stock involves risks. We urge you to carefully read the section entitled Risk Factors beginning on page 13 of this prospectus, the section entitled Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2008, and all other information included or incorporated by reference in this prospectus in its entirety before you decide whether to exercise your rights.

	Per Share		Aggregate	
Subscription Price	\$	25.00	\$	250,000,000
Estimated Expenses	\$	0.04	\$	424,725
Net Proceeds to Us	\$	24.96	\$	249,575,275

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense. The securities are not being offered in any jurisdiction where the offer is not permitted.

The date of this prospectus is .

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ABOUT THIS PROSPECTUS

Unless otherwise stated or the context otherwise requires, the terms Brookfield Homes Corporation, we, us, and our refer to Brookfield Homes Corporation and its subsidiaries.

You should rely only on the information included or incorporated by reference in this prospectus. We have not authorized anyone to provide you with additional or different information. If anyone provides you with additional, different or inconsistent information, you should not rely on it. We are not making an offer to sell securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information in this prospectus is accurate only as of the date on the front cover of this prospectus, and any information we have incorporated by reference is accurate only as of the date of the document incorporated by reference, in each case, regardless of the time of delivery of this prospectus or any exercise of the rights. Our business, financial condition, results of operations and prospects may have changed since that date.

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QUESTIONS AND ANSWERS RELATING TO THE RIGHTS OFFERING

The following are examples of what we anticipate will be common questions about the rights offering. The answers are based on selected information from this prospectus and the documents incorporated by reference in this prospectus. The following questions and answers do not contain all of the information that may be important to you and may not address all of the questions that you may have about the rights offering. This prospectus and the documents incorporated by reference in this prospectus contain more detailed descriptions of the terms and conditions of the rights offering and provide additional information about us and our business, including potential risks related to the rights offering, the shares of convertible preferred stock and the shares of common stock issuable upon conversion of the convertible preferred stock, and our business.

Exercising the rights and investing in our shares of convertible preferred stock and common stock involves risks. We urge you to carefully read the section entitled *Risk Factors* beginning on page 13 of this prospectus and the section entitled *Risk Factors* in our Annual Report on Form 10-K for the year ended December 31, 2008, and all other information included or incorporated in this prospectus by reference in its entirety before you decide whether to exercise your rights.

What is a rights offering?

We are distributing to holders of our common stock as of 5:00 p.m. New York City time on _____, 2009, which we refer to as the record date, at no charge, subscription rights to purchase up to an aggregate of 10,000,000 shares of convertible preferred stock. You will receive 0.3735701 subscription rights for each share of common stock you owned at 5:00 p.m. New York City time on the record date, subject to adjustments to eliminate fractional rights. The subscription rights will be evidenced by rights certificates.

What is a right?

Each whole right gives our stockholders the opportunity to purchase one share of convertible preferred stock at the subscription price of \$25.00 per share and carries with it a basic subscription privilege and an over-subscription privilege. The shares of convertible preferred stock will initially be convertible into shares of common stock at a conversion rate of 3.571428571 shares of common stock per share of convertible preferred stock, which is equivalent to a conversion price of \$7.00 per share.

What is the basic subscription privilege?

The basic subscription privilege of each whole right entitles you to purchase one share of convertible preferred stock at the subscription price of \$25.00 per share.

What is the over-subscription privilege?

The over-subscription privilege of each whole right entitles you, if you have fully exercised your basic subscription privilege, to subscribe for additional shares of convertible preferred stock (up to the number of shares of convertible preferred stock for which you subscribed under your basic subscription privilege) at the same subscription price per share on a pro rata basis if any shares of convertible preferred stock are not purchased as of the expiration date by other holders of subscription rights under their basic subscription privileges. Pro rata means in proportion to the number of shares of convertible preferred stock that all subscription rights holders who have fully exercised their basic subscription privileges on their common stock holdings have requested to purchase pursuant to the over-subscription privilege.

How many shares of convertible preferred stock may I purchase if I exercise my rights?

We are granting to you, as a stockholder of record on the record date, 0.3735701 subscription rights for each share of our common stock you owned at that time. Each right contains the basic subscription privilege and the over-subscription privilege. We determined the ratio of rights you will receive per share by dividing \$250,000,000 by the subscription price of \$25.00 to determine the maximum number of shares of convertible preferred stock to be issued in the rights offering and then dividing that number by the number of shares of common stock outstanding on the record date. For example, if you owned 1,000 shares of our common stock on the record date and you were granted 0.3735701 rights for each share of our common stock you owned at that time, then you would have the right to purchase 374 shares of convertible preferred stock at a price of \$25.00 per share, after rounding to eliminate

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fractional rights. You may exercise any number of your subscription rights, or you may choose not to exercise any subscription rights.

If you hold your shares in the name of a broker, dealer, or other nominee who uses the services of the Depository Trust Company, or DTC, then DTC will issue 0.3735701 rights to the nominee for each share of our common stock you own at the record date, subject to adjustments to eliminate fractional rights. Each whole right can then be used to purchase one share of convertible preferred stock at the subscription price of \$25.00 per share. As in the example above, if you owned 1,000 shares of our common stock on the record date, you have the right to purchase 374 shares of convertible preferred stock at a price of \$25.00 per share, after rounding to eliminate fractional rights.

We will not issue fractional subscription rights or cash in lieu of fractional rights. Fractional subscription rights will be rounded to the nearest whole number, with such adjustments as may be necessary to ensure that we offer 10,000,000 shares of convertible preferred stock in the rights offering. In the event that, because of the rounding of fractional subscription rights, the rights offering would have been subscribed in an amount in excess of 10,000,000 shares of convertible preferred stock, all holders' subscription rights will be reduced in an equitable manner. Any excess subscription funds will be returned, without interest or deduction.

How many shares of common stock will I receive if I convert my shares of convertible preferred stock?

Each share of preferred stock will initially be convertible into 3.571428571 shares of common stock, which is equivalent to a conversion price of \$7.00 per share, subject to adjustment upon the occurrence of certain events. If, upon conversion of the convertible preferred stock, a holder would be entitled to receive a fractional interest in a share of our common stock, we will, upon conversion, pay in lieu of such fractional interest, cash in an amount determined under the terms of the convertible preferred stock.

Will I receive dividends on shares of convertible preferred stock, and when will I receive them?

Yes. Holders of shares of convertible preferred stock will be entitled to receive, when, as and if declared by the board of directors out of funds legally available for such purpose, dividends per year at the per share rate of 8% of the \$25.00 stated value of each share of convertible preferred stock, or \$2.00 per year. The stated value of the shares is subject to adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the convertible preferred stock. Dividends on the convertible preferred stock will be fully cumulative, will accumulate without interest from the date of original issuance of the convertible preferred stock and will be payable semi-annually in arrears in, at our election, cash, shares of common stock or a combination of cash and shares of common stock, on the last calendar day of each June and December, commencing on the last calendar day of the first June or December following the date of original issuance of the convertible preferred stock.

If I convert my shares of convertible preferred stock, will I receive any payment for declared and unpaid dividends on the shares of convertible preferred stock?

Yes. Upon conversion of convertible preferred stock, we will pay to the holder of the convertible preferred stock being converted an amount equal to all declared and unpaid dividends on the shares of convertible preferred stock being converted. At our election, we may make those

payments in cash, shares of common stock or a combination of cash and shares of common stock.

Can I redeem the convertible preferred stock?

No. The convertible preferred stock will not be redeemable at the option of either you or our company.

What is the maturity of the preferred stock?

The convertible preferred stock is perpetual, and therefore does not have a maturity date. However, beginning June 30, 2014, if the 90-day volume weighted average closing price in trading of our common stock on the New York Stock Exchange (or any other national securities exchange or other market on which our common stock is then traded or quoted) immediately prior to the determination date exceeds \$14.00 per share (as adjusted to reflect any stock dividend, split, combination or other similar recapitalization of the our common stock), we may, at our option, require that all then outstanding shares of convertible preferred stock be automatically converted into shares of common stock.

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What if there is an insufficient number of shares of convertible preferred stock to satisfy the over-subscription requests?

If there is an insufficient number of shares of convertible preferred stock to fully satisfy the over-subscription requests of rights holders, subscription rights holders who exercised their over-subscription privilege will receive the available shares of convertible preferred stock pro rata based on the number of shares of convertible preferred stock each subscription rights holder has subscribed for under the over-subscription privilege. Any excess subscription payments will be returned, without interest or deduction, promptly after the expiration of the rights offering.

Why are we conducting the rights offering?

We are making the rights offering with the intention of raising up to \$250,000,000, before deducting estimated offering expenses of \$424,725. We currently intend to use the net proceeds received from purchases of convertible preferred stock for general corporate purposes, including repayment on the credit facility of an affiliate of our largest beneficial stockholder, Brookfield Asset Management Inc. We believe that a rights offering provides our stockholders the opportunity to participate in this transaction and therefore significantly reduces the potential dilution of their ownership interest in our company.

How were the subscription price of \$25.00 per share of convertible preferred stock and the terms of the convertible preferred stock, including the conversion price, determined?

A special committee of independent directors of our board of directors recommended to the board, and our board of directors determined, that the subscription price for the shares of convertible preferred stock and the terms of the convertible preferred stock, including the conversion price, should be designed to provide an incentive to our current stockholders to exercise their rights. Factors considered in setting the subscription price, the conversion price and the terms of the convertible preferred stock included general conditions in the securities and real estate markets, alternatives available to us for raising equity capital, the current trading price of our common stock and the amount of proceeds desired. The subscription price for shares of convertible preferred stock is \$25.00 per share and the initial conversion price is \$7.00 per share. The subscription price and the conversion price do not necessarily bear any relationship to the book value of our assets or our past operations, cash flows, losses, financial condition, net worth or any other established criteria used to value securities. We did not seek or obtain any opinion of financial advisors or investment bankers in establishing the subscription price or the conversion price. You should not consider the subscription price or the conversion price to be an indication of the fair value of the convertible preferred stock or the common stock issuable upon conversion of the convertible preferred stock.

Our shares of convertible preferred stock and common stock may trade at prices above or below the subscription price and conversion price, respectively.

Am I required to exercise any or all of the rights I receive in the rights offering?

No. You may exercise any number of your whole rights, or you may choose not to exercise any rights. If you do not exercise any rights, or you exercise your rights but do not convert your shares of convertible preferred stock into shares of common stock, the number of shares of our

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common stock you own will not change. However, your percentage ownership interest in our company will be diluted to the extent that participating stockholders convert their shares of convertible preferred stock into shares of common stock and to the extent that we pay dividends on the convertible preferred stock in shares of common stock. Your percentage ownership interest in our company will also be diluted to the extent that you convert convertible preferred stock into common stock and we elect to pay dividends on the convertible preferred stock by issuing shares of common stock.

How soon must I act to exercise my rights?

The rights may be exercised beginning on the date of this prospectus through the expiration date, which is _____, 2009, at 5:00 p.m., New York City time, unless extended by us. If you elect to exercise any rights, the subscription agent must actually receive all required documents and payments from you or your broker or nominee at or before the expiration date. Although we have the option of extending the expiration date of the subscription period, we currently do not intend to do so.

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When will I receive my subscription rights certificate?

Promptly after the date of this prospectus, the subscription agent will send a subscription rights certificate to each registered holder of our common stock as of 5:00 p.m., New York City time, on the record date, based on our stockholder registry maintained at the transfer agent for our common stock. If you hold your shares of common stock through a brokerage account, bank or other nominee, you will not receive an actual subscription rights certificate. Instead, as described in this prospectus, you must instruct your broker, bank or nominee whether or not to exercise rights on your behalf. If you wish to obtain a separate subscription rights certificate, you should promptly contact your broker, bank or other nominee and request a separate subscription rights certificate. It is not necessary to have a physical subscription rights certificate to elect to exercise your rights.

May I transfer my rights?

No. Should you choose not to exercise your subscription rights, you may not sell, give away or otherwise transfer your subscription rights. Subscription rights will, however, be transferable by operation of law (for example, upon the death of the recipient).

Are we requiring a minimum subscription to complete the rights offering?

No.

Can the board of directors cancel, terminate, amend or extend the rights offering?

Yes. Our board of directors may decide to cancel or terminate the rights offering at any time before the expiration of the rights offering and for any reason. If our board of directors cancels or terminates the rights offering, we will issue a press release notifying stockholders of the cancellation or termination, and any money received from subscribing stockholders will be promptly returned, without interest or deduction.

We may amend the terms of the rights offering or extend the subscription period of the rights offering. The period for exercising your subscription rights may be extended by our board of directors, although it does not presently intend to do so. We also reserve the right to amend the terms of the rights offering.

Has our board of directors made a recommendation to our stockholders regarding the exercise of rights in the rights offering?

No. Our board of directors has not, and will not, make any recommendation to stockholders regarding the exercise of rights in the rights offering. You should make an independent investment decision about whether or not to exercise your rights. Stockholders who exercise rights risk investment loss on new money invested. There is currently no market for the convertible preferred stock. Although the New York Stock Exchange has approved the listing of the convertible preferred stock subject to official notice of issuance, its approval is conditioned on there being at least 100 holders of the convertible preferred stock. Therefore, the listing of the convertible preferred stock on the New York Stock Exchange will depend upon the number of our stockholders that exercise their rights, and it will not be possible until after the rights offering has been completed to determine whether or not the convertible preferred stock will be listed on the New York Stock Exchange. In addition, if listed, the continued listing of the convertible preferred stock on the New York Stock Exchange will depend upon the convertible preferred stock continuing to meet the New York Stock Exchange's continued listing standards. Furthermore, if listed, we cannot assure you that a liquid market for the convertible preferred stock will develop or, if developed, be maintained. As a result, we cannot provide you with any assurance about the price at which you will be able to sell the convertible preferred stock, or about whether you will be able to sell the convertible preferred stock at all, and you might be unable to sell your convertible preferred stock at a price equal to, or higher than, the subscription price, if at all. If you do not exercise your rights, you will lose any value represented by your rights and your percentage ownership interest in our company will be diluted to the extent that participating stockholders convert their shares of convertible preferred stock into shares of common stock. Your percentage ownership interest in our company may also be diluted to the extent that we elect to pay dividends on the convertible preferred stock by issuing shares of common stock. If you convert your convertible preferred stock, you may be unable to sell the shares of common stock issuable upon such conversion at a price equal to or greater than the conversion price. For more information on the risks of participating in the rights offering, see the section of this prospectus entitled "Risk Factors".

How do I exercise my rights? What forms and payment are required to purchase the shares of convertible preferred stock?

If you wish to participate in the rights offering, you must take the following steps, unless your shares are held by a broker, dealer or other nominee:

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- deliver payment to the subscription agent using the methods outlined in this prospectus; and
- deliver a properly completed rights certificate to the subscription agent before 5:00 p.m., New York City time, on _____, 2009, unless extended.

If you send a payment that is insufficient to purchase the number of shares of convertible preferred stock you requested, or if the number of shares of convertible preferred stock you requested is not specified in the forms, the payment received will be applied to exercise your basic subscription privilege. Unless you have specified the number of shares of convertible preferred stock you wish to purchase upon exercise of your over-subscription privilege, any payment in excess of that required to exercise your basic subscription privilege will be refunded. If the payment exceeds the subscription price for the full exercise of the basic and over-subscription privileges (to the extent specified by you), the excess will be refunded. You will not receive interest on any payments refunded to you under the rights offering.

What should I do if I want to participate in the rights offering, but my shares are held in the name of my broker, dealer, or other nominee?

If you