

REVIEW OF TARION – LONG OVERDUE

AGENCY WHICH IS SUPPOSED TO FIGHT FOR NEW HOME BUYERS VICTIMIZED BY SHODDY WORKMANSHIP OFTEN DOESN'T

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If you haven't bought a new house recently, you may not have heard of the Tarion Warranty Corporation, and you may not care about the provincial review of Tarion announced recently.

But if you are buying a new home in Ontario, Tarion is a big deal.

All new homes in Ontario are backed by a Tarion warranty that consumers pay for through mandatory fees.

When builders refuse to honour their own warranties, or are unable to, Tarion is supposed to step in and pay for the repairs, and then go after the developer to recover the costs.

Sounds great, except Tarion is not accountable to you or to the government.

It is a private corporation largely controlled by the same developers it is supposed to regulate.

I believe Tarion is the most "captured" regulator in Ontario, serving the interests of the industry that controls it, not the consumers who pay its bills.

By control, I don't mean that developers are lobbying Tarion's board of directors.

I mean that under provincial law, almost half of Tarion's board is appointed by the Ontario Home Builders' Association, the lobby group for the development industry.

So when you turn to Tarion after your builder refuses to fix your cracked foundation or worthless HVAC system, who do you think Tarion is typically going to side with?

You, or the developers?

The consumer group Canadians for Properly-Built Homes has documented hundreds of cases where Tarion has refused to honour consumer claims against their builders, and even fought these consumers in court, side-by-side with the builder.

"They play hardball," said one new home buyer to me, after a brutal experience fighting Tarion's lawyers that cost her thousands in legal fees.

She eventually won her case, but CPBH's research shows that most consumers lose such battles, probably because most people lack the resources to fight Tarion and the builder in court.

One such home buyer told me he was dropped by his home insurance company after Tarion refused to fix water leakage into his brand new basement that caused mould and funguses "the size of pizzas".

Then his bank refused to renew his mortgage without insurance. Eventually, he lost his home.

(Editor's note: Tarion says in its annual report that 78% of about 10,200 new home buyers surveyed said Tarion was able to ensure builders fulfill their warranty obligations.)

After years of complaints — by consumers, the Ontario Ombudsman, and by MPPs from all parties — the government finally agreed to a review of Tarion, to be led by respected former judge J. Douglas Cunningham.

But just as consumers began celebrating their hard-won victory, Consumer Minister David Oraziotti prejudiced the review by remarking, "I anticipate that Justice Cunningham will find Tarion's processes validated as good consumer protection measures."

So, before Cunningham has even hung up his coat, Oraziotti has already declared everything is fine with Tarion.

It looks like Justice Cunningham is being asked to attach his good name to a review that has a pre-ordained outcome.

Cunningham is no puppet, and he has proven he can navigate complicated and foul-smelling government waters.

I still hope he will be able to push back against the government and special interests, and get the tools and access he needs to properly investigate Tarion.

But even Justice Cunningham may be unprepared for the roadblocks and spin that will certainly be thrown in his way by the most captured regulator in Ontario, and by the government that enables it.

— Marchese is a former New Democrat MPP who introduced four private member's bills to reform Tarion between 2009 and 2013.