

Ontario appoints adviser to review Tarion

Written by **David Dias** Thursday, 05 November 2015

Amid transparency concerns around Tarion Warranty Corp., the Ontario government has appointed a former judge as a special adviser to conduct a review of the organization and related legislation.



'We think this is an incredibly important step for the province and for Ontario's purchasers of newly built homes,' says Karen Somerville.

David Oraziotti, the minister of government and consumer services, announced the appointment of justice Douglas Cunningham this morning. Cunningham, former associate chief justice of the Ontario Superior Court, will review Tarion and the Ontario New Home Warranties Plan Act and provide recommendations for improving consumer protection, accountability, transparency, and board governance.

"Justice Cunningham has the expertise, experience, and sound judgment that is critical for this review. We look forward to his recommendations, which will help improve protection for owners of new homes in Ontario," said Oraziotti.

The move comes after years of political debate over Tarion's mandate to collect fees from purchasers and builders of new homes while critics charge it has kept its internal workings largely secret.

Although Tarion issues an audited annual financial statement, the administrator isn't accountable to the province's auditor general or ombudsman, nor does it provide salary information for employees earning more than \$100,000 for the province's sunshine list.

The alleged lack of transparency has led to frequent calls for reform. Former NDP MPP Rosario Marchese tabled bills to that effect in 2010, 2011 and 2012, and most recently NDP MPP Jagmeet Singh brought forward a private member's bill that would bring Tarion under the jurisdiction of the Ontario ombudsman and the auditor general and require public salary disclosures.

Despite having no public mandate to investigate Tarion, former ombudsman André Marin has reported almost 300 complaints about the administrator from 2007-13. Marin told the *Toronto Star* that he has "long believed that Tarion lacks proper oversight."

Karen Somerville, president of the advocacy group Canadians for Properly Built Homes, which has been fighting for reform at Tarion for over a decade, says she's thrilled by the news. "We think this is an incredibly important step for the province and for Ontario's purchasers of newly built homes. This is long overdue, and so we're very pleased that this has finally been announced."

Somerville is hopeful recommendations will transform the governance of Tarion, which she claims has been unduly influenced by builders and developers at the expense of homebuyers seeking recovery from defectively built properties. “It needs to be truly a consumer-oriented organization with much, much less influence from the Ontario Homebuilders Association and from builders and developers,” she says. “That goes to the heart of the governance issues with Tarion.”

In addition, Somerville hopes recommendations will loosen Tarion’s monopoly over home warranties in the province and provide homebuyers whose claims have been denied an opportunity to resubmit them.

“We hope that Ontarians who have been involved and who have been hurt by the current system will reach out and offer to be part of this process, this study that’s underway. We’re really hoping that Ontarians will choose to participate, will share their experiences, and let this review know why these changes are so important. . . . There are many homeowners who are suffering greatly because their claims were denied.”

Tarion, for its part, says its model as an independent administrator has allowed it to operate quickly, efficiently, and effectively and that it’s required to provide numerous disclosures to the province if not to the public directly.

In April, Tarion chairman Chris Spiteri rebutted a piece of commentary in *Law Times* in which columnist Alan Shanoff argued Ontarians “have little verifiable or relevant information on whether the public is receiving value for its money.”

Spiteri responded that its model as an independent administrator “provides the Ministry of Government and Consumer Services with oversight of Tarion through its accountability agreement. The government contributes to board composition and the nomination process and requires quarterly reports to the ministry, annual reports, audited financial statements, annual business plans, yearly regulatory plans, and annual public meetings.”

That may not be enough for detractors who will no doubt be waiting eagerly for Cunningham’s recommendations.