
Terms of Reference for Tarion Review

November 5, 2015

These Terms of Reference set out the mandate and scope for a review of Ontario's new home warranty program.

Membership

The Minister of Government and Consumer Services will establish an advisory committee and appoint, via ministerial letter, a single special advisor to the committee (the Reviewer) to conduct a thorough review and make recommendations regarding the Ontario New Home Warranties Plan Act and the Tarion Warranty Corporation that administers the warranty plan.

Mandate

The Reviewer will engage consumers, the Tarion Warranty Corporation (Tarion), the new home building industry, the municipal sector and others as appropriate, in his review of the Ontario New Home Warranties Plan Act and new home warranty regime, and of the outcomes the current regime achieves for new home buyers and home builders.

The review will include assessing best practices in the area of new home warranties, and examining Ontario's existing new home warranty legislation and regulations, as well as Tarion's dispute resolution, licensing, registration and enforcement policies. The review will also examine Tarion's corporate governance.

The Reviewer will report to the Minister of Government and Consumer Services.

Objectives of the Review

The review will examine and make recommendations regarding Tarion and the new home warranty legislative framework it administers, including with respect to the following:

1. **Consumer protection**
 - a. Procedural issues (e.g. claim submission and repair timelines)
 - b. Homeowner's onus to prove defects
 - c. Dispute resolution processes
 - d. Warranty coverage levels and duration
 - e. Degree of government involvement in policy changes relating to consumer protection

2. **Accountability and Transparency**

- a. Independent oversight – whether to extend provincial Auditor General and Ombudsman oversight
- b. Alignment with provincial Freedom of Information and Protection of Privacy Act
- c. Disclosure of compensation information
- d. Open Data policies
- e. Accessibility of information to homebuyers, builders and other stakeholders
- f. Disclosure of outcomes of claims against builders and Licence Appeal Tribunal decisions
- g. French language services

3. **Board governance**

- a. Composition of board of directors
- b. Appointment of the chair
- c. Membership and terms of reference of advisory committees.

4. **Other matters**

- a. Whether Tarion should have the authority to make regulations
- b. Modernization of Tarion's compliance tools
- c. Examining current business model for provision of warranties

Timing

The review will commence November 1, 2015 and conclude by June 30, 2016.

Deliverables

The Reviewer will provide a final report with recommendations to the minister prior to June 30, 2016. The Reviewer will provide a draft report to the minister by May 31, 2016.

The report will include a comparison of Ontario's legislative framework with leading Canadian and international jurisdictions

The Reviewer will consult with stakeholders in conducting the review, including with:

- New home owners and the public
- Consumer Advocacy Groups
- Tarion Warranty Corporation
- Ontario Home Builders' Association and other industry stakeholders
- Provincial ministries (including MGCS, Ministry of Municipal Affairs and Housing, Ministry of Training, Colleges and Universities, Ministry of Labour)
- Municipal stakeholders (including Association of Municipalities of Ontario, Association of Municipal Clerks and Treasurers of Ontario, Ontario Building Officials' Association, Large Municipalities Chief Building Officials)
- Federal stakeholders as appropriate (e.g. Canada Mortgage and Housing Corporation)
- Other groups as advisable.

The report will include a section providing details of the consultations undertaken.

Ethics, Governance and Accountability

The Reviewer is accountable to the Minister of Government and Consumer Services, and will report to the Minister of Government and Consumer Services on such matters and at such times as the Minister may request.

The Reviewer will be required to fulfill the duties of appointment in a professional, ethical and competent manner and avoid any real or perceived conflict of interest. In particular, and without limiting the generality of the foregoing obligations, the Reviewer shall:

1. Not use or attempt to use his appointment to benefit himself or any person or entity;
2. not participate in or attempt to influence decision making as an appointee if he could benefit from the decision;
3. not accept a gift that could influence, or that could be seen to influence, the appointee in carrying out the duties of the appointment;
4. not use or disclose any confidential information, either during or after the appointment, obtained as a result of his appointment for any purpose unrelated to the duties of the appointment, except if required to do so by law or authorized to do so by the Minister
5. not use government premises, equipment or supplies for purposes unrelated to his appointment; and
6. comply with such additional requirements, if any, established by the Minister.

For the purposes of the above, “confidential information” means information that is not available to the public. The Reviewer will keep his work on the Review separate and independent from any other work he may be undertaking. It is the responsibility of the Reviewer to identify any actual or potential conflicts of interest that may arise during the term of his appointment. The Reviewer must declare a personal or pecuniary interest that could raise conflict of interest concerns at the earliest opportunity to the Minister or the Minister’s designate.

The Reviewer will comply with the Government of Ontario’s directives and principles with respect to ethics and accountability.

Confidentiality and Intellectual Property

The final report of the Reviewer shall be made publicly available.

All work produced by the Reviewer would be the property of the Crown in right of Ontario.

All work produced by consultants as part of the review would be treated in accordance with the Statement of Work for the consulting contract, and in accordance with the Master Agreement for Management Consulting Services.

Operational Support

The ministry will provide support to the Reviewer through a secretariat to be established within the ministry.

Roles and responsibilities of ministry staff include, but are not limited to, oversight of the Review, including review of draft documents, coordination of consultations and meetings (internal/external), providing research support and facilitating any administrative and technical support needs, where appropriate.

The ministry will also provide research and consulting support required by the Reviewer, subject to Deputy Minister’s approval, including:

- Jurisdictional research
- Public engagement
- Technical advice regarding the building sector or home warranties
- Plain language editing of the final report

The Deputy Minister of Government and Consumer Services or his/her designate are responsible for approving all expense claims subject to Ontario Public Service guidelines.