



Sept. 21, 2016

By e-mail – 14 pages

Open Letter

The Honourable J. Douglas Cunningham Q.C.
141 Adelaide Street West, Suite 1108
Toronto, ON, M5H 3L5

Subject: Feedback regarding The Interim Report for the Tarion Review

Dear Justice Cunningham:

We have carefully reviewed your Interim Report for the Tarion Review. We remain deeply concerned that you have not received adequate consumer input as part of your review. There are a number of reasons for this lack of consumer input, including:

- Very sparse consumer turnout to your 10 town hall meetings. We understand that only about 50 consumers attended your 10 town hall meetings. As we advised you throughout this process, many consumers indicated that they would never participate in public town hall meetings such as these. Key reasons included lack of privacy, consumer concerns of litigation if they spoke out, and/or concerns of lowering their own property values. Further, advertising of these town hall meetings was very poor.
- Many consumers were denied an opportunity to meet with you one-on-one after they requested such a meeting. Many consumers asked for one-on-one meetings with you as they felt that they needed privacy, but were turned away by your assistants, and told to submit their concerns by e-mail to your Tarion Review e-mail address.
- As we advised you throughout this process, a number of consumers said that they would not use a government e-mail address as they were concerned about potential "filtering".
- As a result of inquiries by CPBH, on Sept. 12, 2016, the ON government confirmed that some e-mails submitted (including some by CPBH) did not get through to you due to abbreviated URLs, and/or restrictions on the size of attachments. But prior to that people were not advised by the ON government e-mail system that their e-mails were not getting through to you. This has created a situation where it appears that no one knows what you received, and what you did not receive, since November 2015, when that e-mail

address was provided to the public. Further, this situation has created cynicism amongst many members of the public.

- Consumers who did attend town hall meetings (in different locations) advised that you left their town hall meetings early. This left some consumers with the impression that you were not interested in what they had to say.
- Consumers in different town hall meetings advised that they were not allowed to share their experiences with you about their Tarion-approved builder and about Tarion in these town halls – that you/Deloitte staff said that you only wanted their recommendations. But some of these consumers also advised that they do not know what to recommend given how complex these issues are – that they wanted to inform you - and that they thought it was your job to develop the recommendations. Some of these consumers felt “shutdown” in your town hall meetings, and this also has served to fuel cynicism amongst some in the consumer community toward this Tarion Review.

We have concluded that this consumer consultation process was seriously flawed, and has resulted in inadequate consumer input to this review¹. As we consider this in relation to the impact on your Interim Report, a post on social media by Ottawa lawyer Christopher Arnold perhaps sums it up best:

“Purchasers need a choice of insurance product. Do away with the monopoly altogether. Hope Douglas Cunningham is bold in his recommendations...His initial report was a bit of a disappointment – seemed muted in his concern for the buyer side of the argument – yet it is this small slice (the buyers with serious problems) that the system must work for!”

We submit that your final report needs to include a robust section on the impact on consumers when Tarion does not adequately protect them, e.g., financial impact, being stuck with Ontario Building Code violations, stress, anxiety, potential health impacts (e.g., from mold), years of waiting for a court date, family breakdown, etc.

We will now move on to other key problems with this Interim Report.

- a) Lack of recognition of shortcomings in Ontario’s new home warranty by many others since inception 40 years ago – Many, many others have highlighted serious problems with

¹ In a Toronto Star column published June 16, 2016, lawyer, and former Tarion Board member Bob Aaron, also raised an issue with the consultation process used for this Tarion Review: “...In December, Toronto real estate lawyer Mark Morris wrote Cunningham, asking to make a presentation about Tarion shortcomings. He was advised “we will be in touch with you once we have our schedule in place.” In March, he asked again and received no response. Finally, last week he was told that the industry consultations have been concluded although email input is still welcome...”

Ontario's 40-year old new home warranty, including an article by Professor Ziegel published in the Globe and Mail in 1976, the Office of the Ombudsman of Ontario that has been calling for jurisdiction over Tarion since 1986, many other media reports over the decades, numerous bills introduced in the Ontario Legislature, Tarion's own annual homeowner survey that has repeatedly said that about 60,000 respondents were dissatisfied with Tarion, etc.

- b) Insufficient focus on the regulator role – There is some recognition of the regulator responsibilities of Tarion in the Interim Report, but it seems significantly skewed to the warranty side of Tarion's operations. If Tarion did a much better job on its regulatory responsibilities, this would provide significantly better consumer protection, and reduce the need for the warranty responsibilities. There should be much greater consideration given generally in this Tarion Review to the importance of building properly at the outset. As noted in an Aug. 2014 article in Macleans magazine:

"...All that money sloshing around is bound to attract inexperienced and, possibly, unscrupulous operators, with many experts saying the industry largely remains a 'wild west' in Ontario when it comes to regulation...."

- c) Lack of challenge to Tarion by you as the Reviewer - There are many statements in this report that seem to just take Tarion's word at face value, seemingly without challenge – and without sufficient critical thinking. For example, related to inspections, the longstanding serious problems with municipal inspections in different parts of the province have been covered by the media, and Tarion should be well aware of them due to media reporting and due to homeowner claims. Tarion's response that it is not cost effective to conduct inspections needs to be challenged. For example, it is not necessary to do 100% inspections – we submit that if Tarion did spot inspections, it would put all builders on alert and significantly improve quality.
- d) Lack of recognition of the 1976 Letters Patent vis-à-vis quality housing - In the "Objectives and focus of the review" section it says: *"..how should Tarion regulate builders and vendors in order to drive quality..."* Please note that the 1976 Letters Patent say *"...through research programs, to achieve a progressive improvement in the quality of housing in Ontario in all its aspects..."* Is Tarion conducting sufficient and appropriate research? Please make this assessment and include it in your final report. This was discussed with you in our March 9, 2016 meeting.
- e) Time limitations on warranty in relation to confirmed Ontario Building Code violations not discussed – In our March 9, 2016 meeting, another key point that we raised with you was Tarion's use of a regulation (that Tarion developed and approved itself) to limit warranty on confirmed Code violations -- which supercedes Section 13 of the Act. In your Options

section, under “warranty coverage and duration”, we again request that you include no time restrictions on warranty for confirmed Code violations. As you know, the OBC is focused on safety, and there should be no loopholes in providing warranty on confirmed Code violations, regardless of when they were confirmed.

- f) Jurisdictional scan not adequately summarized and reported – This jurisdictional scan shows that a monopoly model is highly irregular. It also shows that the same organization acting as both regulator and warranty provider is also highly irregular. These irregularities with the current Ontario model should be clearly noted in your report. (Further, documents obtained via Freedom of Information show that Deloitte Inc. played key roles in this Tarion Review, including developing the jurisdictional scan. We find it curious that Deloitte is not recognized in this Interim Report.)
- g) Perceived discounting by you of an optional warranty program - In the section on “Tarion’s role and business model”, you appear to have prematurely discounted the option of an optional warranty program. In our March 9, 2016 meeting we discussed that we have heard from some that they want an optional warranty program. Further, some of the jurisdictions included in your Jurisdictional Scan offer optional, rather than mandatory, warranty.
- h) Unrealistic expectations of consumers – In the section “Consumer education”, regarding home buyers doing their own builder research, it is critical that you recognize that it is unrealistic to expect homeowners to do this. Purchasers with problems will often not disclose this to other people who approach them for references, as they may be concerned about litigation by the builder if they disclose the problems, concern about lowering their own property values, etc. (Tarion has all of this data – why does Tarion continue to refuse to provide it to the public?)
- i) Lack of adequate information regarding illegal building – Tarion claims to be putting considerable focus on illegal building. But Tarion’s organization chart in Appendix E of your Interim Report does not identify the responsible department. Please amend this organization chart to clearly identify this department, and include an assessment regarding whether you believe there are sufficient resources to focus on illegal building. This was also discussed with you in our March 9, 2016 meeting.
- j) Insufficient timeframe considered relating to the LAT – in the section “Trends related to the new home warranty program”, concerning what has been happening at the LAT, it says that “...remained fairly consistent year over year since 2011”. We submit that this five-year timeframe is too short. CPBH’s annual analyses since 2006 show a very significant decline since 2006, and as noted by MGCS Assistant Deputy Minister (ADM) Denton’s October 7, 2014 letter to the Tarion president, he said: “...A less litigious and

adversarial process would also address concerns the ministry has heard from homeowners that they are dissuaded from pursuing LAT appeals because the existing processes are not transparent, and are complicated, time-consuming, costly, and unbalanced...". Please consider a 10- year timeframe, and include ADM Denton's October 7, 2014 letter in your "Other Sources of Input" section.

- k) Inadequate consideration of appropriate focus for builder awards – In the section on "Compliance tools", awards for customer service excellence is referenced. As discussed with you on March 9, 2016, we believe that this award focus is misplaced. If awards are necessary, they should be for quality construction. If there is quality construction, customer service becomes unnecessary. This may seem like a small point, but it relates to the need for quality construction.
- l) Incomplete section on "Other Sources of Input" – Examples of sources of input that were considered but not included are the Home Inspectors' survey, and the CPBH consumer survey (that we completed at your encouragement), that were referenced in this Interim Report.

CPBH has already provided you with some feedback to your Interim Report by e-mail to try to give you maximum time for consideration. These e-mails are presented as appendices to this document as well. Appendix 3 concerns Tarion's monopoly. The following quote by Premier Wynne in the National Post on April 17, 2015 was discussed with you in our March 9, 2016 meeting: *"The days of monopoly are done"*. Please include this statement from Premier Wynne in your final report.



Please let me know if you have any questions about this submission, or would like additional information.

Yours truly,



Dr. Karen Somerville, PhD in Management
President

Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, not for profit corporation dedicated to healthy, safe, durable, energy efficient residential housing for Canadians, and is the only organization of its kind in Canada. Working for consumer awareness and protection, CPBH is run by a volunteer Board of Directors and is supported by a volunteer Advisory Council of industry experts and other key stakeholders. CPBH earned "partner" status with the Canadian Consumer Information Gateway (Industry Canada).

Appendix 1 – Urbancorp and Binding Arbitration

Appendix 2 – Tarion’s own Homeowner Surveys and Tarion’s Financials

Appendix 3 - Single Warranty Provider

Appendix 4 – Media Reports

Appendix 1 ----- Forwarded Message -----

Subject:possibility of binding arbitration

Date:Sun, 4 Sep 2016 07:05:43 -0500

From:CPBH <info@canadiansforproperlybuilt homes.com>

Organization:Canadians for Properly Built Homes

To:Tarionreview@ontario.ca <Tarionreview@ontario.ca>

CC:mflalonde.mpp.co@liberal.ola.org, JSingh-QP@ndp.on.ca <JSingh-QP@ndp.on.ca>, McDonell, Jim <jim.mcdonellco@pc.ola.org>

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Dear Justice Cunningham:

CPBH will be providing a comprehensive response to your Interim Report once we have had time to fully study/digest it and prepare our response (before your requested date of Oct. 14, 2016), but there are some areas that we have already identified that may require further study on your part. We are going to respond to these as quickly as we can, so that you have as much time as possible before you submit your final report.

The first matter concerns Urbancorp. Once we read the Aug. 31, 2016 Toronto Star article that said that you cannot yet comment on Urbancorp, I sent an e-mail to you about that on Sept. 1, 2016. CPBH is of the strong opinion that Tarion's handling of Urbancorp (as the industry regulator, and in relation to deposit insurance) must be considered in this Tarion Review if this review is to have any credibility. Key issues with Urbancorp have been reported in the media for more than a year.

The second matter is your reference to the possibility of binding arbitration (Appendix A - Summary of Options). Over the years, from time to time CPBH has liaised with the President of a comparable organization to CPBH in the United States, Nancy Seats of Homeowners Against Deficient Dwellings (HADD). Here is a link to a guest column on our web-site from Nancy Seats, which mentions the problems of binding arbitration in that country - as well as some of the key concerns. We understand that these problems with binding arbitration continue today.

<http://www.canadiansforproperlybuilt homes.com/html/guestcolumn/nancyseats.html>

We respectfully urge you to evaluate the experiences of jurisdictions using binding arbitration (from a consumer perspective) in relation to new home construction defects if you have not done so already - before recommending binding arbitration.

Best regards,

Appendix 2 ----- Forwarded Message -----

Subject:Tarion Review Interim Report - your "impression" - Tarion's own Homeowner Survey Results and financial statements appear to have been ignored

Date:Sun, 4 Sep 2016 12:26:36 -0500

From:CPBH <info@canadiansforproperlybuilt homes.com>

Organization:Canadians for Properly Built Homes

To:Tarionreview@ontario.ca <Tarionreview@ontario.ca>

CC:mflalonde.mpp.co@liberal.ola.org, McDonell, Jim <jim.mcdonellco@pc.ola.org>, JSingh-QP@ndp.on.ca <JSingh-QP@ndp.on.ca>

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Dear Justice Cunningham:

As we have previously communicated, CPBH will be providing a comprehensive response to your Interim Report once we have had time to fully study/digest it and prepare our response (before your requested date of Oct. 14, 2016), but there are some areas that we have already identified that may require further study on your part. We are going to respond to these as quickly as we can, so that you have as much time as possible before you submit your final report. Previous e-mails have identified issues 1 (Urbancorp) and 2 (binding arbitration as an option). The third matter that we are raising in this e-mail concerns Tarion's own annual Homeowner Survey Results. The fourth matter we are raising in this e-mail concerns Tarion's published financial statements.

Tarion has paid considerable money to have a survey developed and conducted annually for a number of years now. We discussed this with you when we met on March 9, 2016, and it is identified in our follow up letter dated Mar. 20, 2016 - Appendix 1, #11 (copy attached). Yet our review of your Interim Report, including an electronic search for key words, reveals no mention of these survey results. (We assume that had you considered these survey results, these documents would have been included in "Other Sources of Input" in your report.)

As we have already brought to your attention, many are critical of both some of the Tarion survey questions and how this survey is administered, e.g., who is allowed to complete this annual survey. But even if we accept the results reported annually by Tarion, serious red flags are raised from a consumer perspective. For example, both a former Minister and Tarion itself have referred to an "85% approval rating" concerning these survey results. This suggests that about 60,000 respondents (families) annually do not approve of Tarion. We hope that you agree that about 60,000 respondents annually is a very significant number.

With respect, we again urge you to review these survey results. From a consumer protection perspective, many agree that an 85% approval rating is clearly inadequate for the largest purchase most consumers make. As well, we believe that paying particular attention to the trends over the past five year period will give you some statistically reliable data upon which to evaluate Tarion's effectiveness as a warranty provider.

We note the following statement in your interim report: "*..In my interactions with Tarion's*

senior management team and staff, and the Tarion Board of Directors, the impression I was left with is that they are dedicated and committed to consumer protection..." (page 2 of the Executive Summary). We were struck by the word "impression", as well as the lack of actual hard data you appear to have seriously considered in your Tarion Review thus far. (For example, we cannot see in your report that you have reviewed Tarion's published annual financial statements.)

We believe that Tarion's homeowner survey results, complemented by Tarion's financial statement information over this five year period of 2010 to 2015 (e.g., the salary/benefit expense compared to the amount paid in claims*, the wealth that Tarion has accumulated in surpluses over these years, etc. etc.), provide important information that you should use to assess Tarion's commitment to consumer protection.

Further, your finding about the issue of Tarion not publicly disclosing all deficiencies is nothing new. CPBH raised this serious issue with Mr. Bogach (the Tarion CEO) in a meeting within his first month on the job in 2008, and he said he had already heard about it before he met with us. The Toronto Star raised this same issue in its July 6, 2013 investigative report and on July 8, 2013, the Star reported this: *"Consumers should have easy access to information about a builder's record to help them make informed buying decisions," Consumer Services Minister Tracy MacCharles said in response to the Star's findings. "One of the cornerstones of consumer protection is information and transparency."* Yet, this very longstanding issue of the lack of disclosure by Tarion of all deficiencies continues to deprive consumers of this critical information, and you noted this again in your interim report. Tarion's lack of adequate action on this important issue is clearly not due to the lack of technology, or a lack of resources. This is at the heart of what plagues Tarion: Tarion (for a myriad of reasons) lacks the **will** to provide information on all deficiencies.

While Tarion may be telling you that they are dedicated and committed to consumer protection, how Tarion chooses to use its monopoly dollars needs to be **keenly** analyzed and considered in this review. Is Tarion really walking the talk? Many with direct experience with Tarion say absolutely not.

With respect Justice Cunningham, your "impressions" may be interesting to some, but your impressions are clearly inadequate for a review as important as this -- particularly when there is considerable data that tells a story available to you.

Best regards,

* As two examples, the 2014 published financials for Tarion show that they paid:
- \$24,258,000 in salaries and benefits compared to \$4,893,000 in Claims. That means that they paid about five times more in salaries and benefits than they did in Claims.
- \$10,451,000 in general and admin compared to \$4,893,000 in Claims. That means that they paid about twice the amount in G&A than they did in Claims.

Appendix 3

Subject:Interim Tarion Review Report: Inaccurate and incomplete information, as well as a perceived bias in the section "Single Warranty Provider"

Date:Mon, 5 Sep 2016 18:57:11 -0500

From:CPBH <info@canadiansforproperlybuilthomes.com>

Organization:Canadians for Properly Built Homes

To:Tarionreview@ontario.ca <Tarionreview@ontario.ca>

CC:McDonell, Jim <jim.mcdonellco@pc.ola.org>, J. Douglas Cunningham <dcunningham@amicuschambers.com>, JSingh-QP@ndp.on.ca <JSingh-QP@ndp.on.ca>, mflalonde.mpp.co@liberal.ola.org

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Dear Justice Cunningham:

As we have previously communicated, CPBH will be providing a comprehensive response to your Interim Report once we have had time to fully study/digest it. We will provide our full response before your requested date of Oct. 14, 2016, but there are some areas that we have already identified that we believe require further study on your part. We are going to respond to these as quickly as we can, so that you have as much time as possible before you submit your final report. Previous e-mails have identified issues 1. Urbancorp, 2. binding arbitration, 3. the importance of using Tarion's own annual Homeowner Survey Results in your Tarion Review, and 4. the importance of using Tarion's published financial statements in your Tarion Review.

The focus of this e-mail concerns the section of your report entitled "Single Warranty Provider". We are quite troubled by this section as it is very incomplete, includes an inaccurate statement, and it appears to present a bias against ending Tarion's monopoly status.

When we met with you in March, we discussed this important option of ending Tarion's monopoly, and we advised you that Premier Wynne declared in April 2015 that "*the days of monopoly are done*". We also provided you with a copy of the attached photo from the National Post that show that. Yet, this section is silent on this statement from Premier Wynne. We are requesting that you include this statement from Premier Wynne in your report, and cite that National Post article in the "Other sources of input" section of your report.

The option of ending Tarion's monopoly has been considered for at least two decades. For example, we have previously provided you with a report from the Building Regulatory Reform Advisory Group (BRRAG) dated July 30, 2000 (copy attached), which says on page 62: "*...the Chair and Vice-Chairs favour a competitive environment for insurance overall, including the coverage which exists for the new home building sector. While there was considerable resistance voiced by some builders to changing the Ontario New Home Warranty Program business model, other BRRAG members and stakeholders favoured a re-evaluation of the current single warranty provider system...*" We are requesting that you include this information

in this section of the report, and reference the BRRAG report in the section "Other sources of input".

As you know, CPBH initiated a Change.Org petition to end Tarion's monopoly. Each time someone signs this petition, you should receive an e-mail at your Tarion Review e-mail address. At the time of your submission of your interim report, there were approximately 600 signatures on this petition, so you should have received approximately 600 e-mails at that point. Further CPBH has periodically provided you with a package of the comments that people have left with the petition, as well as a file of the names/locations of those who have signed. As well, CPBH has been advising you that sitting MPPs have also signed this petition, and at the time of filing your interim report, 23 sitting MPPs had signed this petition, including the leader of the NDP (Horwath) and both Critics (Singh and McDonell). Some MPPs also provided comments when they signed the petition, e.g., the comments from Leader Horwath and MPP Hillier as noted with the attached memes. Yet, the "Single Warranty Provider" section of your report did not mention the Change.Org petition, the signatures or the related comments. Further, your "Other sources of input" section, does not reference the Change.Org petition, or the comments that you received. Attached you will find a file with all of the comments to date, as well as a file with the names/locations of those who have signed to date (690 people currently). We are requesting that you include this information in this section of the report, and reference the Change.Org petition signatures and comments in the section "Other sources of input". We are also requesting that you read the comments that have been provided by those who have signed. There are some profound comments that have been made that should help to enlighten you further about homeowners' experiences and views.

We take strong exception to this statement: *"...This includes the misconception amongst homeowners that the competition model in other Canadian jurisdictions and elsewhere provides homeowners with choice...."* With this statement, you appear to be suggesting that all homeowners are misinformed, which is inaccurate. While there is a possibility that some homeowners may have this misconception, others homeowners fully realize that it is the builder's choice. Please note that with the Change.Org petition, CPBH provided an example from British Columbia that demonstrates how home purchasers in that province use the warranty provider used by the builder as one of the key purchase criteria. Here is the link to that update:

<https://www.change.org/p/kathleen-wynne-end-tarion-s-new-home-warranty-monopoly-now-give-home-buyers-a-choice/u/16773962> .

We are very concerned that you have unfairly and inappropriately discounted consumer input regarding this important matter of the monopoly model. We are requesting that you not discount the results of the Change.Org petition, and correct this statement in your next report. We are also requesting that you inform your readers that homeowners can use the warranty provider used by the builder as one of the key purchase criteria. We believe that using the builder's choice of warranty provider as a purchase criterion should be regarded as a positive.

The CPBH consumer survey (that you encouraged us to conduct for your Tarion Review purposes) also included a question about whether Ontarians should have a choice of warranty provider, and overwhelming respondents (87%) said that there should be a choice of warranty provider. Yet your interim report has ignored this input as well, which we also find troubling. We are requesting that you do not discount this information, include this information from the CPBH survey in this section of the report, and reference the CPBH survey report in the section "Other sources of input".

Much of this section of your report is dedicated to Tarion's concerns. Of course, it is to be expected that Tarion will be concerned if its monopoly privilege is retracted. Tarion's arguments appear to be self-serving, for example to protect their jobs and high salaries/benefits. As CPBH brought to your attention previously, Tarion's published financial statements for 2014 show that Tarion paid about five times in salaries/benefits than they did claims, and about twice as much in general and administration expenses than they did claims. When we met in March, we asked that you evaluate whether the compensation packages for the 10 Tarion executives are excessive, but your assessment of this has not yet been provided. As Tarion is concerned about an increase in costs with the monopoly model, we encourage you to benchmark their salaries with reasonably comparable non-monopoly warranty providers, and share the results (appropriately redacted) in your next report, as one measure of monopoly-Tarion's competitiveness on costs. Another good measure to benchmark with other comparable non-monopoly warranty providers is the ratio of 10 Tarion executives for 220 Tarion employees (1:21). Again, we are requesting the results of this benchmark in your next report.

Your report includes this statement: *"..Tarion also expressed concern that a multi-provider model would lead to builders being motivated to provide the bare minimum warranty at the least cost..."*. We assume that in a multi-provider model, another organization (e.g., perhaps the Government of Ontario) would determine what the appropriate level of consumer protection is, would dictate the bare minimum warranty. We do not understand what the issue is with that, and if this statement is included in your next report, further elaboration is requested.

Your report also includes this statement: *"...Tarion questioned whether they could provide the same level of customer service to homeowners..."*. We draw your attention to the consumer survey that we undertook at your encouragement. This survey includes questions regarding Tarion's service delivery. Overall, the vast majority of respondents "strongly disagreed" that Tarion displayed any of *"Tarion's Values for Service Delivery: Teamwork, logical, listening, fairness, caring"*. We encourage you to include these survey results somewhere in your report.

Rather than highlighting Tarion's concerns, this section needs objective, sound argument regarding the pros and cons of monopolies, as well as how the other jurisdictions you considered have performed. We have included some references with the Change.Org petition as well as the related updates found with the petition that you may find helpful. We are requesting that in your next version of the report, you include objective, sound evidence of the

pros and cons, as well as the sources that you consider.

A Freedom of Access record related to the Tarion Review show that Deloitte was hired, as well as an "industry expert" - a home inspector. We encourage you to consider hiring an expert on monopolies (e.g., an economist) concerning the pros and cons of a monopoly model in Ontario to inform your Tarion Review.

We find that the summary of the jurisdictional review concerning the four business models in this section of the report somewhat confusing, and suggest that a clearer, more robust summary (e.g., including time frames for warranty) would be better presented in another section, e.g., perhaps with Appendix C. Attached you will find an example of a comparative jurisdictional analysis from 2006 that you may find useful in terms of format/information provided.

We are requesting that you also clearly state in the "Single Warranty Provider" section of your report that of the nine jurisdictions included in your Jurisdictional Scan (that we understand was prepared by Deloitte), that eight (89%) do not use a monopoly model.

Lastly, we understand that you met with at least one insurance industry representative as part of the Tarion Review, yet, if this is true, this is not mentioned in this section. Further, if you did meet with a representative(s) of the insurance industry, this is not disclosed in the section entitled "consultations". If you did meet with a representative(s) of the insurance industry, we are requesting that you provide the appropriate information and disclosure in your report.

Respectfully,

Appendix 4

----- Forwarded Message -----

Subject:Interim Tarion Review Report: Including the references to media articles in the section of your report entitled "Other Sources of Input"

Date:Mon, 5 Sep 2016 19:34:53 -0500

From:CPBH <info@canadiansforproperlybuilt homes.com>

Organization:Canadians for Properly Built Homes

To:Tarionreview@ontario.ca <Tarionreview@ontario.ca>

CC:mflalonde.mpp.co@liberal.ola.org, McDonell, Jim <jim.mcdonellco@pc.ola.org>, JSingh-QP@ndp.on.ca <JSingh-QP@ndp.on.ca>

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Dear Justice Cunningham:

As we have previously communicated, CPBH will be providing a comprehensive response to your Interim Report once we have had time to fully study/digest it. We will provide our full response before your requested date of Oct. 14, 2016, but there are some areas that we have already identified that we believe require further study on your part. We are going to respond to these as quickly as we can, so that you have as much time as possible before you submit your final report. Previous e-mails have identified the following issues: 1. Urbancorp, 2. binding arbitration, 3. the importance of using Tarion's own annual Homeowner Survey Results in your Tarion Review, 4. the importance of using Tarion's published financial statements in your Tarion Review, and 5. strong concerns about the "single warranty provider" section of your report, and numerous related requests.

The focus of this e-mail concerns the absence of the references to pertinent media articles in the section of your report entitled "Other Sources of Input". We strongly believe that pertinent articles that have appeared in the media should be carefully considered as part of your Tarion Review. When we met with you in March, we hand-delivered copies of some articles that related to both shoddy construction in Ontario (Tarion's industry regulator role), as well as issues with the warranty protection. We understood from that meeting that you would be reviewing other relevant media articles from the past decade. Assuming this is the case, we urge you to include the references to these articles in the section of your report entitled "Other Sources of Input". If you would like CPBH to provide you with a reference list of additional pertinent articles, please let me know as soon as possible.

Respectfully,