



**A Report Related to the Licence Appeal Tribunal (LAT) and Tarion  
(in relation to Tarion’s administration of the Ontario New Home  
Warranty Plan Act)**

**2006 - 2017 - Analysis**

Issued April 20, 2018

***“The LAT: The Place that Fairness Forgot”***

Please submit questions/comments to: [info@canadiansforproperlybulthomes.com](mailto:info@canadiansforproperlybulthomes.com) .

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).

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## Executive Summary

Over the years, a number of officials have expressed concern regarding the LAT's operations, for example:

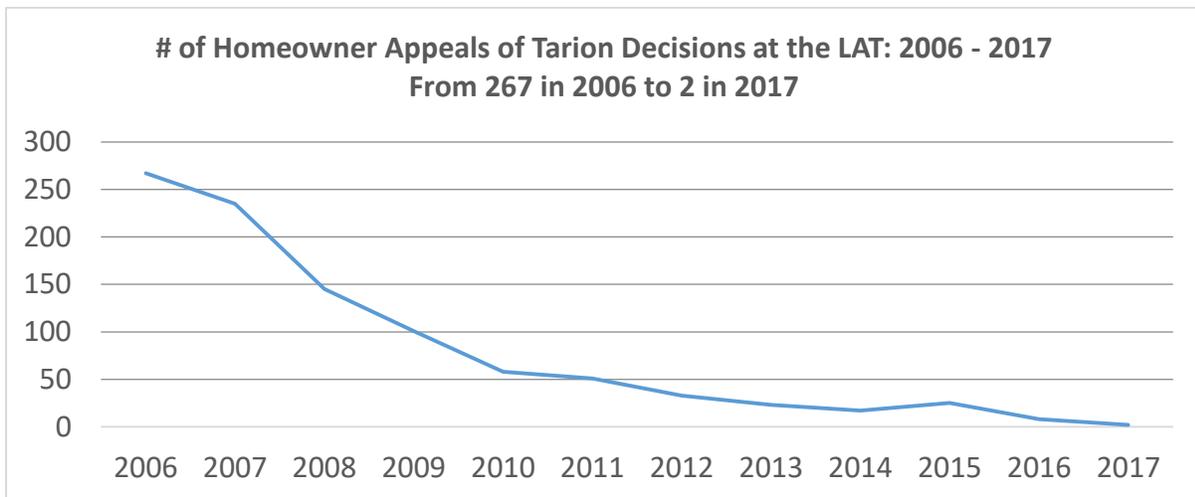
*".....A letter from Frank Denton (former Assistant Deputy Minister of Government and Consumer Services) to Tarion's President Howard Bogach dated Oct. 7, 2014 also referenced the issue of homeowners unwilling to go to the LAT. ADM Denton's letter said: "...A less litigious and adversarial process would 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..."*

**and**

*"...The Thomson/Cohl report dated Aug. 3, 2016 also raised serious concern about the LAT's processes: "...It is hard to review such a lengthy proceeding without coming away with serious concern about how legalistic, court-like and adversarial the adjudicative process at the LAT....has become..." (p. 25).*

During the period 2006 to 2017, homeowners have lost more than 85% of the items that they took to the LAT. Tarion is always represented by lawyers; homeowners typically represent themselves.

In 2017, only two (2) parties appealed Tarion's decisions at the LAT in 2017. This is a shocking statistic. When CPBH started to analyze the LAT vis-à-vis Tarion in 2006, there were 267 cases at the LAT re Tarion.



Consumers continue to advise CPBH that they have lost confidence in the LAT as a way to appeal Tarion's decisions, and they will simply not go there. Meanwhile serious complaints about Tarion continue to be highlighted in the media. Homeowners continue to express serious concerns to CPBH about Tarion as well, e.g., homeowners in a large housing development have advised that they are considering a class action suit, if they can find a law firm to handle it.

***Access to justice appears to be worsening in Ontario in relation to newly built home construction defects and the Tarion Warranty Corporation.***

In Justice Cunningham's final report related to the Tarion Review, which was delivered to your government in Fall 2016, he said: "...Where there is a dispute, a dispute resolution process must not only deliver justice but also be seen to deliver justice....". But the Ontario Government has still not addressed this very serious matter. In addition to the operational problems at the LAT, the LAT has no authority to enforce its orders.

CPBH has been writing to the Ontario Government and others in positions of authority about this serious situation at the LAT since 2007. In the summer of 2017, CPBH representatives met with Attorney General Yasir Naqvi, and he requested that CPBH provide him with a written report. Here is the link to the report that CPBH developed for the Attorney General of Ontario:

[http://www.canadiansforproperlybuilt homes.com/html/whatsnew/2017/sept/09-12-CPBHFinal\\_AGNaqvi\\_LATprocessissues.pdf](http://www.canadiansforproperlybuilt homes.com/html/whatsnew/2017/sept/09-12-CPBHFinal_AGNaqvi_LATprocessissues.pdf)

In March 2018, Attorney General MPP Naqvi advised that his ministry is "monitoring" this situation.

**Conclusion:**

**The Government of Ontario says it puts a priority on "fairness". Clearly the LAT does not provide a fair process for new home warranty appeals. Given these results, and the ongoing, acknowledged serious process problems at the LAT - and to provide Ontarians with access to justice for the largest purchase most consumers make – CPBH's position remains that the Government of Ontario must immediately replace the LAT for appeals of new home warranty decisions.**

**It's obviously time for the Ontario Government to do more than "monitor" this situation.**