

April 25, 2018 - E-Mail to Attorney General Yasir Naqvi

Subject: LAT - 2017 re Tarion - only two (2) cases - down from 267 in 2006

Dear Attorney General Naqvi:

As you know, 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).

We have now concluded our analysis for 2017, and we found that only two (2) parties appealed Tarion's decisions at the LAT in 2017. This is a shocking statistic for many of us. When we started to analyze this situation in 2006, there were 267 cases at the LAT re Tarion.

Consumers continue to advise us 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 your 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 as you know.

CPBH has been writing to your ministry about this serious situation at the LAT since 2007. In March 2018, you advised that your ministry is "monitoring" this situation. With respect, Attorney General Naqvi, it is clear that it is time for you/your Ministry to take action regarding the LAT. We are requesting a prompt response.

Best regards,
Karen Somerville

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