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Barbara Captijn bought a house from a builder in 2007, assuming she could rely on the Ontario new home warranty to save her from major repair costs in the first few years.

Now she's going to small claims court to sue the builder over problems with the hot water heating system installed in her multi-million dollar downtown Toronto home.

Things started going wrong within 10 months of the purchase. But Captijn listened to her builder's advice not to go to Tarion Warranty Corp., which administers the program.

"The builder gave us the runaround for over two years, making us think we had routine plumbing problems and not a serious defect in the hot water installation design and use of equipment," she says.

Only when she hired an independent expert did she find the hot water tank was carrying too much heat load for its capacity. But her two-year warranty on mechanical systems had expired.

Captijn kept fighting. She tried and failed to get coverage under Tarion's seven-year warranty for major structural defects.

When she appealed to the provincial License Appeal Tribunal, she was offered \$8,000 to settle the case just before the hearing.

"The offer was too low to cover our repair costs and was contingent on giving up our rights to proceed against the builder in small claims court," she says.

"We should have just ignored Tarion and gone directly to small claims court. That's the advice I'd give other consumers."

Buyers pay for the new home warranty, with enrolment fees ranging from \$600 to \$1,900, depending on the sale price. Builders bundle it into the listing price or add it to the statement of adjustments paid during closing.

Howard Bogach, president of Tarion since 2008, says Captijn shouldn't have waited until the fourth year to file her claim.

"Any coverage has limits," he said. "We have pretty specific rules and this was not a major structural defect. I can't say any more than that. I thought it was crystal clear."

Captijn is not alone in blaming homebuilders for taking short cuts when installing heating, ventilation and air conditioning systems.

On Nov. 19, I wrote about Bev Craddock. She was awarded \$40,000 by the License Appeal Tribunal when Tarion refused to fix her heating system.

Tarion decided not to appeal, but the builder plans to appeal. Now she has to hire a lawyer to argue that she wasn't served with the papers properly.

"It's a big lie that Tarion or the tribunal provides a simple means of resolving disputes. It's just one big exercise in wearing you down," Craddock says.

When I asked readers about inadequate home heating systems, I heard from a number of people. Many blamed Tarion for refusing to help. (You can find their stories at [my blog](#).)

"Tarion is much more interested in protecting the builder than the consumer," said Carol and Dale Egan, whose custom-built home came with a high-efficiency furnace that burned through four motors in four years.

After the two-year Tarion warranty expired, they were told they could get another free motor but they had to pay for the service call and labour cost.

Another reader talked about having two furnaces replaced within two years and not getting access to test results shared with the builder. Both furnaces and the ducts were undersized.

"I've learned how 'in bed' Tarion is with the builders in this whole process," said the reader, who wanted to remain anonymous.

Tarion has replaced heating systems several times for homeowners in some new developments. The engineers who installed the systems have been called



Storefront at the Tarion help centre at City Centre in North York.

Paul Irish

to disciplinary hearings by their professional associations.

Even Mike Holmes, the outspoken contractor, has done a segment on his HGTV show featuring an owner with a heating system that didn't do the job. Called Re-Inventing, it will run again on Dec. 26.

"We don't think there's a systemic problem," Bogach insists. "We have very few complaints about heating systems."

If you have comments about new home defects and the Tarion warranty, please let me know. Let's keep the discussion going.

Ellen Roseman writes about personal finance and consumer issues. You can reach her at eroseman@thestar.ca.