

# New home buyers out in the cold when complaining about heating systems: Roseman

Ontario's new home warranty protects buyers from defects, but only if they file complaints within two years.

**By:** [Ellen Roseman](#) On Your Side, Published on Fri Apr 27 2012

Jeremy Leiskau bought a two-year-old townhouse in 2002, paying \$365,000. A home inspection didn't reveal any problems.

But after moving in, he found the heating and cooling system didn't work properly. He was always too cold in winter and too hot in summer, no matter where he set the thermostat.

Only in spring did his townhouse reach the right temperature for him to sleep comfortably. Only in spring did he not wake up when the noisy motor turned on in the middle of the night.

Neighbours in the Oakville development built by Fernbrook Homes in 2000 to 2001 had similar problems. Some managed to get repairs or replacements after filing claims with Tarion Warranty Corp.

Leiskau tried to get repairs as well. But since he wasn't the original owner, he'd missed the two-year window for heating system repairs under Ontario's new home warranties plan act.

"I wear layers and keep the gas fireplace on in the living room," he says. "But it's embarrassing and awkward for entertaining, since the guests are always cold. I can't sell. I feel trapped."

The Oakville homes have a high-velocity system that picks up heat from a hot water tank or boiler and sends air around the home through tiny ducts (just five centimetres in diameter).

"The equipment does not produce the heat or air flow that is advertised by the manufacturer. In addition, the ductwork is too small," says Dara Bowser, a professional building technologist who examined the homes.

In 2009, Tarion received a report that showed the high-velocity system was undersized. It fixed 12 of the Oakville homes, but left 38 others alone because the owners hadn't complained within the two-year time period.

Ralph Morgan, an original owner who missed the deadline, paid \$15,000 to install a new air handler with separate boiler and change the air conditioning system's internal coil.

"Our new system works much better, but is still somewhat constrained because of the two-inch tubing installed by the builder," he says.

"When Tarion fixed the 12 houses, it used three-inch tubing to provide better air flow and reduce the noise of the original system, a common complaint on our street."

Rosemary Farnsworth, who bought into the same development in 2005, found the air conditioning was inefficient and didn't cool the second floor.

“Countless letters, meetings and petitions got all of the residents of our subdivision nowhere,” she says. “Many of us just bit the bullet and paid for a better system out of our own pocket.

“The problem could have been rectified with a minimum of fuss at the beginning, but was allowed to mushroom into an expensive and angry mess. It’s a disgrace.”

In her view, no one was accountable. The builder blamed the manufacturer. The manufacturer blamed the installer. The province blamed the municipality. And the municipality said the file was closed on the homes.

Homeowners in the Oakville development don’t want to draw attention to their plight. They fear the resale value could be jeopardized.

One man, who bought a townhouse there two years ago, is suing both the real estate agent and the former owner in small claims court. He alleges they breached their duty under the law to disclose known defects.

After I interviewed him, he called back to say I couldn’t use his name because his neighbours would be upset. They insisted he talk to the media anonymously and not specify the exact location in Oakville.

What can buyers do to avoid such problems? Leiskau says he should have done more homework before buying his first home.

“Check the builder,” he says. “Read the customer satisfaction ratings published by J.D. Power every year. Ask the neighbours if they’re happy with the development.”

Finally, don’t assume the new home warranty will protect you from defects that show up only after the first few years. If you miss the strict time limits, you may be on the hook for repairs.

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