

## Ontario's Consumer Protection System Fails New Home-Buyers

TORONTO, ONTARIO (Feb. 27, 2012). Tarion administers the Ontario New Home Warranty Plan Act which is mandatory for all new homes in Ontario. Tarion's public advertising states: "Tarion stands behind every new home warranty and that's something you can feel good about." In Bev Craddock's case, Tarion did not stand behind her warranty and she does not feel good about it.

Since moving into her home in December 2007, Craddock experienced significant problems, including, insufficient hot water and HVAC (Heating Ventilation and Air Conditioning) malfunctions. When the builder failed to remedy the problems, she called Tarion. Tarion sent an investigator, who Craddock has since learned, had no training in either HVAC or Building Code issues. The investigator concluded that her problems were not warranted and denied her claim. When Craddock complained to the Tarion Internal Ombudsman, she was told to appeal to the Licence Appeals Tribunal (LAT). As a result of the appeal, Tarion reinvestigated her complaint, confirming a temperature discrepancy of 14 degrees between floors in her multi-level townhome. They offered her the band-aid solution of a 500 watt baseboard heater, which Craddock declined.

Craddock then hired an HVAC expert who concluded there were numerous issues with her system, including Building Code violations, poor workmanship, and health and safety violations related to installation of the equipment. She appealed the Tarion decision to LAT. During the investigation leading up to the LAT hearing, Ms Craddock learned that Tarion has denied claims for other very similar systems and in 2008 one of those denials was reversed by the LAT. She also learned that in 2009, other homeowners had similar systems replaced by Tarion and that an independent engineer retained by Tarion in 2009 concluded that the problems with this system were likely due to a defect in design or manufacture.

Ms Craddock represented herself against lawyers and experts hired by Tarion and the Builder and convinced the LAT to reverse the Tarion decision. The LAT process took more than two years. In October 2011, Craddock was awarded compensation of \$40,000 to fix her HVAC system. The builder has appealed the LAT decision to Divisional Court and Ms Craddock has been forced to hire a lawyer to defend herself. Given Tarion's stated role of stepping in to protect consumers when Builders fail to fulfill their warranty obligations, Craddock wonders why she is now being left on her own to defend the decision in Court with the \$40,000 that is supposed to be used to fix her home being eaten up in legal fees. Craddock wonders how is that consistent with Tarion's mandate of consumer protection?

In March 2008, Marko and Cathy Pascuttini moved into their new home next door to Craddock. The Pascuttini's experienced the same problems and after finding the builder unresponsive, appealed to Tarion. Their claim was also denied. Despite the win at LAT, Craddock and Pascuttini believe that the LAT process is unfair to homeowners. They charge that Tarion and Builders have hijacked the process, stonewalling owners with lawyers and multiple experts and doing everything possible to delay the process.

Craddock and the Pascuttini's believe that the consumer protection system for new home-buyers in Ontario is broken. When they bought their homes, they did so, at least in part, based on the premise that if something was wrong, there was a warranty provider who would stand behind them. Instead they have lived for years without proper heat in their homes. They have endured malfunctioning equipment, and in Pascuttini's case, mold that resulted from malfunctioning/leaking equipment. They have spent countless hours waiting for contractors and experts and preparing for legal battles. Craddock had to use almost three weeks of her vacation to fight her case at LAT. They have paid for experts and legal advice and yet more than four years after they have moved into their homes there is no finality to their cases. Their concerns, which have been brought to the attention of the Ministry of Consumer Services, have resulted in only empty platitudes.

Craddock and Pascuttini are calling on the government to implement serious reforms in the consumer protection system for new home-buyers. No one should have to go through what they have to get properly heated homes.

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