



Submission to the Government of Ontario's Standing Committee on Finance and Economic Affairs Regarding Bill 106, Protecting Condominium Owners Act, 2015

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Introduction

Canadians for Properly Built Homes (CPBH) appreciates the opportunity to make this submission regarding Bill 106, Protecting Condominium Owners Act, 2015. It is recognized that Bill 106 includes a broad range of issues relating to condominiums. This submission is restricted to matters that concern CPBH's Mission (#2) and Vision – in relation to consumer protection for condominium owners.

CPBH's Mission

1. To increase consumer awareness of the residential building industry standards and regulations and related issues;
2. **To work with the municipal, provincial, territorial and federal governments to promote greater consumer protection legislation and better standards and practices in relation to the residential housing industry in Canada; and**
3. To influence positive changes in residential building codes across Canada.

CPBH's Vision

- Healthy, safe, durable, energy efficient residential housing for Canadians.

Key Points for Consideration re Bill 106

- In order to protect condominium owners, it is imperative that Bill 106 be modified to address serious issues concerning unscrupulous builders, shoddy construction and inadequate consumer protection. In order to accomplish this, Tarion reform must be addressed in Bill 106.
- Tarion is both the regulator of the industry and provider of home warranty. The board of Tarion continues to be dominated by the building industry. Many refer to Tarion as the “puppet of the building industry” and feel that Tarion often protects builders rather than consumers.
 - As noted by MPP Singh in the debate concerning Bill 106: *“You have a warranty program which is supposed to protect the consumer who has bought a home from a home builder, and in the organization that provides them with the warranty, half of the board members are made up of home builders. So how would there be any accountability?.....It makes absolutely no sense that Tarion is controlled by the industry that it's supposed to regulate. Think about that for a second.... ”.*
- There are good builders, but there are also poor and marginal builders. Consumers continue to have no objective, reliable means of knowing who the good builders are. In Ontario, Tarion has this information, but continues to refuse to provide full transparency to consumers.
 - As noted in a July 8, 2013 Toronto Star article <http://tinyurl.com/myb7fg8> : *“Consumers should have easy access to information about a builder’s record to help them make informed buying decisions,” Consumer Services Minister Tracy MacCharles said in response to the*

Star's findings. "One of the cornerstones of consumer protection is information and transparency." But, more than two years later, this cornerstone is still missing from Tarion.

- Tarion conducts an annual client survey, and there are numerous findings of concern revealed in the survey results. For example, approximately 60,000 families are dissatisfied with Tarion. The problems with Tarion include issues with both the 1976 ONHWP legislation, and how Tarion is administering that legislation. Additional examples of key issues include:
 - As Tarion is a mandatory monopoly, there is little incentive for Tarion to meet consumers' evolving needs and expectations. While there have been some incremental changes over the decades, typically these changes have been very slow and woefully insufficient to meet consumers' needs and expectations.
 - Tarion's 1976 Letters Patent say: *"through research programs, to achieve a progressive improvement in the quality of housing in Ontario in all its aspects"*. There has been little evidence of this sort of research by Tarion in the past decade and the quality of housing continues to decline, e.g., as noted in this Financial Post article <http://tinyurl.com/pp9jca5> .
 - Tarion continues to refuse to operate transparently. Over the decades, many have recognized the culture of secrecy at Tarion, and that culture continues. For example:
 - A recent News Release issued by heating, ventilation and air conditioning expert Dara Bowser is headlined: *"Builder Sues Manufacturer of HVAC System Named in CTV-W5 Episode while Tarion Warranty Corp. Stonewalls on Sub-Standard Equipment Issue and Consumers Continue to Freeze in their Homes"* : <http://tinyurl.com/pwjq3x> .
 - Many suspect that Tarion's bloated executive team members are over-compensated, but salaries and benefits are secret.
 - Tarion uses a regulation (that Tarion itself created and approved) to unreasonably limit timeframes for claims. In effect these timeframes, established through this regulation, can supersede Section 13(1)(a)(iii) of the Act that says that homes need to be constructed in accordance with the Ontario Building Code (OBC). (Many of the homeowner complaints received by CPBH about Tarion relate to violations of the OBC.) For a number of reasons, often the timeframes that Tarion has established for claims are insufficient in order for homeowners to detect the OBC violation and then make the claim to Tarion.
 - As one example, assume that two consecutive winters are relatively mild. Then, in year three of homeownership, there is a harsh winter and only at that point the homeowner realizes there is something wrong with the heating system. But Tarion's heating system warranty ends after two years.
 - Further, Tarion's timeframes for claims have fallen behind other new home warranties in Canada in a number of areas, e.g., BC and Alberta offer a maximum 10 year warranty on structural integrity but Tarion's structure warranty ends in seven

- years. BC and Alberta both offer five year warranty on the building envelope but Tarion's building envelope warranty ends at year two.
- Meanwhile, Tarion continues to accumulate considerable wealth - mainly through consumers' mandatory monopoly payments and investment income – while denying far too many homeowner claims, including claims for confirmed OBC violations.
- Tarion's maximum payout is only \$300,000 but the cost of the average home in the GTA is now over \$1 million according to the Toronto Star <http://tinyurl.com/qbjp6gg> .
 - As noted earlier, Tarion is the regulator of the industry and determines who has the right to build in Ontario. There have been numerous reports in the media about serious shoddy construction issues, including falling glass from condos, consumers freezing and sweltering in homes that do not meet the Ontario Building Code, etc.
 - As one example, an adult daughter wrote to Government and Consumer Services Minister Oraziotti earlier this year about her elderly parents living in “dangerous” conditions as they are freezing in a home that does not meet the minimum standards of the OBC. (This home has been tested by an expert and the results clearly show that the home does not come close to meeting the OBC requirements for heat.)
 - An article recently appeared in the Financial Post, which raised concerns about condominiums, shoddy construction, and as a result, the insurance industry being pushed away <http://tinyurl.com/pp9jca5>. This Financial Post article notes water issues in particular. CPBH has received complaints from consumers about massive flooding and resulting mould as huge problems that no one will talk about concerning condos. Consumers advise that burst pipes in common areas can flood dozens of units, shut down elevators or flood garages even in new buildings. Suggested reasons for these problems include shoddy construction issues such as insufficient insulation, inadequate design, and poor pipe quality.
 - Rather than focusing on properly regulating developers/builders, ensuring that homes meet the OBC, and protecting consumers, Tarion has gone astray with initiatives such as builders' awards, its recently announced Corporate Social Responsibility program, a bloated executive team structure, and accumulating excessive wealth for itself as a corporation.
 - Even though the Government of Ontario receives about \$250,000 annually from Tarion for an “oversight” fee, there is inadequate oversight of Tarion. Further, neither the Auditor General of Ontario nor the Ombudsman of Ontario has jurisdiction over Tarion.
- According to MPP Gelinias (Sept. 15, 2015 in the Ontario Legislature regarding Bill 106) there are seven class action suits by consumers against developers. Law suits are not the answer. Adequate consumer protection is urgently needed!

Conclusion

In the debate in the Ontario Legislature concerning Bill 106 thus far, many MPPs have rightfully articulated the need to include measures to address unscrupulous builders, shoddy construction and serious operational issues with Tarion. It is clear from the Hansard transcripts that the case for the need to revise Bill 106 vis-à-vis Tarion has already been made -- and that many Ontario MPPs understand the urgent need. We hope that this submission has provided any necessary additional information to convince the members of Committee on Finance and Economic Affairs that unscrupulous builders, shoddy construction and other serious operational issues with Tarion must be addressed through Bill 106 in order to provide adequate consumer protection for condominium owners. Ontarians need – and deserve – adequate consumer protection for the largest purchase most consumers make – a home.

Request of the Standing Committee on Finance & Economic Affairs

Please amend Bill 106 to include Tarion reforms - especially amendments allowing Cabinet to prescribe transparency, accountability and governance requirements for Tarion. Thank you for your consideration.

About Canadians for Properly Built Homes (CPBH)

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). CPBH receives no government funding, will not accept donations from the building industry/warranty providers, and relies on donations from consumers for its operations. CPBH representatives have been to Queen's Park ten times in the past decade to advocate for meaningful reform to Tarion, usually accompanied by consumers from across the province.

Web-site: www.canadiansforproperlybuilthomes.com

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Submitted by  Canadians for Properly Built Homes

Bill 106, Protecting Condominium Owners Act, Oct. 18, 2015