



Winter-Spring 2020, vol. 15 no. 1 [Donate here](#)

Bill 159: Ontario's Standing Committee on Justice Policy hears testimony in January, but ZERO NDP proposed amendments accepted by PCs in clause by clause review in February

Welcome to 2020!

Lots happening! We have a long story to tell here, so read on, and then take action!

Here's a recap of what happened in late 2019 with Ontario legislation concerning Tarion:

In late October 2019, Ontario's **Auditor General** released her audit of Tarion. It was a smack down but failed to align with Judge Cunningham's recommendation to shut Tarion down and introduce a multi-warranty provider system.

Minister Lisa Thompson followed with a section on Tarion in the **Omnibus Bill 159**, Rebuilding Consumer Confidence Act, an oxymoron as it turns out. This bill will do little but tinker at the edges of our existing broken regime. Then in December, the long-time Tarion CEO retired. He was replaced by a long-time Tarion executive. Meet the new boss. Same as the old boss.

NDP Leader Andrea Horwath then announced a Private Member's Bill, bill 169, to deal with the broken Tarion regime. MPP Tom Rakocevic introduced the **Home Warranties to Protect Families Act** which you will find here: <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-169> . **CPBH remains delighted to see a Bill that would provide real protection to new home buyers**, adopt a multi-warranty provider system, address the problems with dispute resolution, and regulate builders fairly. Bill 169 proposes the immediate appointment of an Administrator to oversee winding down the existing Plan and ensure existing warranties are honoured. This bill breathes life into Justice Cunningham's recommendations and goes a step beyond: It provides for the review and correction of contentious cases of coverage denial by Tarion. **It is truly focused on consumer protection.**

And that brings us to January 2020 --

As we know, the Conservatives have a majority in the Ontario legislature, but given the ongoing public furore over the broken new home construction and warranty regime, it seemed possible that this government could be persuaded to adopt some improvements to bill 159. Who knows, a future government may decide to adopt the contents of bill 169! #NeverGiveUp

In January, Ontario's **Standing Committee on Justice Policy** heard testimony about bill 159. Sessions were held in Brampton, Windsor and Ottawa. Interestingly, 84 percent of individuals who testified spoke about the problems regarding Tarion. Given the myriad of subjects contained in the omnibus bill, Tarion's broken regime clearly troubled many people enough to testify. Many took time off work and travelled long distances to have their say, which now forms part of Ontario's permanent record.

The Standing Committee "is empowered to study and report on all matters relating to the mandate, management, organization or operation of the ministries and offices which are assigned to it as well as the agencies, boards and commissions reporting to such ministries and offices." <https://www.ola.org/en/legislative-business/committees/justice-policy/parliament-42/mandate> . It is composed of a PC Chair and Vice-Chair, four PC members and three NDP members. Transcripts of the hearings from January 20, 21 and 22, 2020 are here: <https://www.ola.org/en/legislative-business/committees/justice-policy/parliament-42/transcripts>

What did the Committee hear?

A strong contingent of consumers appeared at all three locations. They spoke about their suffering and how they believe **Bill 159 is inadequate**. The President of CPBH, Dr. Karen Somerville, also made a presentation. She told the Committee of the tragic story of **Daniel Browne-Emery who is dying of throat cancer as a result of his lengthy exposure to mold in his newly built home**, according to his oncologist. Many families are suffering today because **the Ontario Building Code is not enforced**, and builder protection and profits trumped consumer protection a long time ago. Many have considered suicide after the stress of years of fighting for the house they paid for, the financial burden, and physical/mental illness. **Dr. Earl Shuman did commit suicide over these issues** (Toronto Star, Feb. 20, 2019). Karen urged the Committee to **put consumer protection at the forefront of this bill** and to adopt several specific recommendations to the bill. MPP Singh responded to her presentation:

"Thank you so much for sharing your comments and the experiences of others. It's truly very powerful – your presentation and how you spoke. It's very emotional, quite frankly, to see how it can have real-life consequences. I want to thank you for sharing that and let you know that it was really moving..."

Read Karen's presentation: <http://canadiansforproperlybuilt homes.com/wp-content/uploads/2020/01/Jan.-22-2020-Bill-159-CPBH-Package-submitted-to-Standing-Committee-on-Justice-Policy.pdf>.

The Committee heard that **consumers have suffered long enough** at the hands of the self-serving regime that is Tarion. They heard that bill 159 is woefully inadequate and will not fix the problems. They heard that **MPP Rakocevic's private member's bill 169 is what is needed**. They heard about how individuals, families, children, seniors are hurt – through damage to their health, finances and their very lives – by improperly built homes that do not meet the building code, the failure of builders to correct these problems and the **active pursuit of Tarion to deny claims**.

It is interesting to note that the **Consumers Council of Canada appeared, claimed to know nothing about Tarion**, and suggested the Committee address Canadians for Properly Built Homes for information on this topic. This is difficult to understand given that two of the **Council's Board members – Chris Ballard and Tracy MacCharles – are**

former ministers with responsibilities in this broken regime, well versed in all of the related problems.

The Committee also heard from **David Roberts**, a **retired Director of Enforcement at the Tarion Warranty Corporation**, former Chief Building Official and former police officer. Mr. Roberts gave a historical perspective of Tarion. He was asked why there were no qualified building inspectors at Tarion. He advised that there had been, but when faced with a financial challenge, **Tarion opted to protect their fund by eliminating its inspectors**. In so doing, they fired the experts on housing construction and code violations, knowledge which is at the very core of the business Tarion is in. How can Tarion make sound decisions about backstopping builder warranties without the expertise to recognize code violations?

Mr. Roberts urged the Committee to see the importance of quality construction as a focus at Tarion. He pointed out that this is categorically not the Corporation's focus now nor does bill 159 put quality into Tarion's objectives in any way. He **raised the alarm on what is happening behind closed doors with the creation of the Tarion spin-off regulator** – the new Housing Construction Regulatory Authority (HCRA) – creating two regulatory bodies, duplicating services, fees and requirements. Who will be in charge he asked? He is not alone in raising the alarm on this issue.

“The HCRA board of directors was appointed last spring and includes two members of the home-building industry who were commissioned after consultation with the Ontario Home Builders' Association. One of the also served on Tarion's board of directors.

The rest appear to be former high-ranking public servants, along with one current executive for the Kraft Heinz Corporation. None appears to have a background in consumer protection.”

Details scarce on Tarion's successor Province replacing home-building industry regulator with new authority

[Laura Osman](#) · CBC News · Posted: Nov 20, 2019 4:00 AM ET | Last

Updated: November 20, 2019

<https://www.cbc.ca/news/canada/ottawa/home-building-regulator-1.5359933>

All the while, Ford and his Conservative Party claim it is cutting red tape for new home construction. How?

David Roberts said that the way forward should be to eliminate Tarion's monopoly and introduce the multi-provider model – just as Justice Cunningham recommended.

Why is the government so determined to maintain this monopoly? Minister Thompson says it is to protect small builders as their costs would increase under a multi-warranty system. David Roberts points out that security deposits would increase, probably for all builders, since insurance providers need to mitigate risk until builders establish a track record of solid construction without claims.

But there's more. **"It seems that Tarion does not charge any security deposits to large established builders," according to Roberts.** Only small, higher-risk builders pay these fees. It is therefore in the interests of big builders to keep this system going, ensuring they pay nothing, and small builders pay all of these fees. So, if Roberts is correct, **Minister Thompson's claim that the monopoly model is needed to protect small builders, is not the whole story.** Big builders would be protected as well by continuing with the monopoly model. **Meeting the requirements of big insurance companies would force builders to meet the code and avoid claims.** What could frighten them more? One presenter at the Committee advised that his nightmare came from a small builder and the current system did nothing to help him, so he would have been better off if his small builder had never been licensed to operate in Ontario.

From a broader perspective, note that when **British Columbia and Alberta** overhauled their regimes, they did not adopt Ontario's system. They adopted multi-provider warranty systems. Apparently, **they made it work.**

CPBH has been asking for the evidence Minister Thompson used to base her decision in favour of maintaining a warranty monopoly. She has not responded.

Bill 159 talks about public protection rather than consumer protection. Public protection includes builders. That language needs to be replaced with consumer protection. And as Justice Cunningham said, quality construction must also be the focus.

The transcripts of the Justice Policy proceedings are helpful for all to see. They do not include, however, **submissions from organizations such as the Ontario Home Builders Association.** This information should also be made available to the public. If it is not, **what is being hidden and why?**



And in spite of all that --

February 27, 2020 was a sad day for Ontario's consumers at Queen's Park: **#Bill159 re #Tarion was reviewed on a clause-by-clause basis** by the [FordNation](#) government PC MPPs and the Opposition NDP MPPs.

It's important to remember that the PCs made a commitment to Ontarians - in writing - before the last election that if elected, they would end Tarion's monopoly. Not only have they reneged on that, but as the NDP tried to get them to adopt amendments to the legislation that has been developed, **not a single NDP proposal was accepted, even though some of them focused on what the Auditor General of Ontario recommended.** The PC responses went from a flat out "no" to they are still studying it.

In the face of hearing citizens from across the province on how consumers are suffering under the current system, a scathing Auditor General report and Justice Cunningham's Tarion Review, there was no sense of urgency and no compassion towards suffering families shown by the PCs.

PC MPP [Bob Bailey](#) in the photo linked here, who is the **parliamentary assistant for consumer protection, led the charge for the PCs.** Please take 15 minutes and review the seven videos that we posted yesterday to Facebook, to see what happened. Motion after motion by the NDP is rejected by the PCs including capping Tarion's CEO salary, eliminating conflict of interest in Tarion Board appointments and more. As you watch, do you see elected representatives acting in the best interests of consumers among the PC MPPs, or representatives of the developers lobby?

<https://www.facebook.com/cpbh01/videos/506219500326340/>

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On a more positive note, **we extend a huge thank you to the NDP members (led by [Tom Rakocevic](#)) for their understanding and support of Ontario's purchasers of newly built homes.**

Tomorrow is another day. This government will not last forever, particularly with the track record they are building up. #NeverGiveUp



Where does all of this leave us?

With an opportunity. It could be you, or your child, or your mother/father next.

Now is the time to call Doug Ford's office. Tell him any or all of these things:

Tell him that Bill 159, his so-called "Rebuilding Consumer Confidence Act", is completely inadequate and an oxymoron.

Tell him that his PCs - before the last election - committed in writing to ending Tarion's monopoly.

Tell him we need a complete overhaul of the building and warranty regime, not tinkering at the edges, because Tarion is beyond repair.

Tell him that all we have seen from him is disdain and contempt for consumers, and support for builders. Let's see some real action to support consumers.

His number is 416.325.1941.

"...we can't continue throwing money at the problem (broken systems) as our predecessors did, into top-down, big government schemes. That is neither compassionate nor sustainable..."

Premier Ford, 2019 Association of Ontario Municipalities Conference

And if you are able, please help keep the doors open at CPBH. [Donate here.](#)

Karen Somerville and Alan Greenberg

CPBH Co-founders

#NeverGiveUp #TarionScandal #TarionIsBeyondRepair #EndTarionMonopolyNOW
#DumpTheLAT



About CPBH

Canadians for Properly Built Homes (CPBH) is an independent, 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). Follow us:



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