



Presentation to Standing Committee on General Government regarding Bill 159 and the Tarion Warranty Corporation

Thank you for the opportunity to meet with you today. My name is Karen Somerville, and I am the President of Canadians for Properly Built Homes (CPBH).

CPBH's work is focused on consumer protection for Canadians regarding the largest purchase most of us make: a home. We have communicated with thousands of consumers in our more than 16 years of operation – the vast majority of them Ontarians.

I presented regarding Tarion/Bill 159 on Jan. 22, 2020. I hope you had a chance to read my deputation. In that deputation, I shared a bit of Daniel Browne-Emerly's tragic situation and his desperate attempts to reach a settlement with Tarion. Daniel has authorized me to provide you with an update today: Daniel was finally able to reach a settlement with Tarion, however, to get that settlement with Tarion, Daniel advised that he was forced to sign a non-disclosure agreement. Yet Tarion's CEO says:

“..Tarion does not require non-disclosure agreements from homeowners in order to reach settlements.... “

(June 2, 2020 email to CPBH from Peter Balasubramanian, President & Chief Executive Officer).

Why did Daniel have to sign a non-disclosure agreement with Tarion?

Today I am going to tell you a little about another Ontario family that purchased a newly built home – Tracy Wheeler and Mark Mitchell and their two children. I have included a photo of them with your package.



The following was written by Tracy Wheeler:

“CPBH has helped my family navigate a broken home warranty process. Our newly built home had multiple OBC violations, mould and air borne mould. Our daughter had become asthmatic and required numerous medications to manage. Due to these serious OBC violations, we had racked up \$140,000 in debt with lawyers and engineers – and we were desperate. Then CPBH got involved – sat with us, listened, advocated to MPPs, and directed us to various sources to push for movement and supported us through our new home crisis.

Without CPBH I don’t think our home would have been repaired as CPBH helped every step to move things forward. We could not have stayed another winter in our home. Our home has now gone through extensive repairs costing over \$250,000, and we are now back in our home happy to report our daughter’s health has improved dramatically. It has been a nightmare and we didn’t have to go it alone. CPBH’s work is important as families and home owners are at the brink of losing everything, in a financial, mental, medical and emotional crisis, desperate to have home warranty issues resolved. The entire process is overwhelming and exhausts the homeowner – placing the burden of proof of OBC violations on the homeowner...a system stacked against the homeowner who did nothing wrong but to buy a home from a Tarion-approved builder.”

So, what does this example have to do with Bill 159? **Everything.** It is another tragic example of the need to ensure the Ontario Building Code is enforced during construction, and when it is not, of the need to take swift action to ensure that the proper repairs are made.

Tarion finally awarded this family a substantial financial settlement. Why does this not appear on Tarion's builder directory for this builder?

We at CPBH wish that we could help all families get out of their newly built home tragedies and get on with their lives. But CPBH is run by volunteers on a shoe-string budget. Obviously we can't do this for all families who desperately need help – and there are a lot of them.

That's where you as MPPs come in. We need strong consumer protection legislation to make sure that no family ever has to go through this again.

About Bill 159 specifically – we have two major concerns:

1. It does not go nearly far enough to provide adequate consumer protection, and
2. It is taking far too long to address the serious issues with Tarion.

Ontario needs what MPP Rakocevic laid out in his Bill 169. That bill delivers on what Justice Cunningham recommended in 2016. Ontario needs a multi-warranty provider model. Research shows that competition is a critical driver of performance and innovation. Research also shows that competition encourages lower prices, better products and better service.

CPBH asked all political parties before the last election what they would do if elected. Former PC MGCS Critic MPP McDonnell responded on behalf of Interim Leader Fedeli. Here is an excerpt of his response:

"...We are on the record advocating for more flexibility in the new home warranty market... and we remain strongly in favour of legislation that would make these changes possible....allowing the government to prescribe acceptable alternative plans from licensed insurers...."

- MPP Jim McDonnell email dated Feb. 15, 2018 on behalf of Interim Leader MPP Fedeli, to Karen Somerville, President, CPBH

So, before the 2018 election, the PCs responded that they agreed with ending Tarion's monopoly. Why has this not been reflected in Bill 159?

Why has Minister Thompson refused to provide her research that she says shows that a monopoly is better for consumer protection?

Why has Minister Thompson not been willing to meet with CPBH for a substantive discussion since she became Minister?

Minister Thompson and her predecessor, Minister Walker, have both referred to Tarion as “broken”. Many have concluded that Tarion is beyond repair, and CPBH agrees with that conclusion.

QPBriefing reported on May 21, 2020:

"Six new board members were quietly named to home warranty provider and homebuilder regulator Tarion in March and April, a change that came without an announcement or press release. Four of the six new board members have ties to the development industry, while another member is former PC MPP **Peter Shurman**."

Why did the majority of new Tarion board have ties to the development industry? Where are the consumer representatives that Parliamentary Assistant MPP Bailey promised? Where is the “complete overhaul” that Minister Thompson promised?

On Mar. 5, 2020 when MPP Rakocevic proposed an amendment to Bill 159 to address conflict of interest on the HCRA board, MPP Bailey said that builders need board seats so that they will cooperate, and be held accountable. MPP Bailey implied in his response that Minister Thompson is willing to accept conflict of interest on these boards. With respect, MPP Bailey, conflict of interest on boards is unacceptable. With respect, MPP Bailey, builders should be held accountable through legislation and regulation - not board seats that puts them in a conflict of interest situation.

It’s important to note that an estimated 120,000 families have been forced - by law - to purchase Tarion’s “broken warranty” since this government came into power two years ago.

Thank you.

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).

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