



Presentation to the Standing Committee on the Legislative Assembly regarding Bill 109, An Act to amend the various statutes with respect to housing, development and various other matters.

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. I will begin by providing you with some key considerations, followed by our recommendations.

Key Considerations:

Let's be clear - Bill 109, the More Homes for Everyone Act, is not about consumer protection, or properly built homes. The focus is on quantity (and building faster) rather than quality – or even meeting the minimal Ontario Building Code (OBC).

No level of government in Canada is focused on the quality of Ontario's housing stock. This is a very serious problem. Indeed, in the past four years, we have seen a regression in even meeting the minimal OBC.

In 1976 when Ontario's home warranty program was created, there was a requirement to have research programs to achieve a progressive improvement in the quality of housing "in all its aspects". Obviously this quality focus was dropped decades ago by Tarion. As far as builders go, they like to give themselves awards for design. Can anyone point to even one builder award for quality?

For decades now, CPBH, the media and many others have been highlighting the serious concerns with the lack of enforcement of the OBC by municipal inspectors during construction. It's important for everyone to understand that the OBC is focused on health and safety – the bare minimum standards for survival in one's home.

Shockingly, Ontario recently approved remote inspections for municipal inspectors (e.g., via drones and zoom calls) rather than properly addressing the serious shortage of qualified municipal inspectors.

Many agree that Bill 109, with its focus on building faster, will result in an increase in health and safety issues for homeowners due to an increase in OBC violations. But it's not only the grave concern about an increase in health and safety threats for the occupants of the home - it is also about the increase in the cost of housing due to Code violations and necessary repairs. Remember the old

adage “Haste Makes Waste”? Builders have advised that once occupied, it costs about seven times more to repair the home.

This bill will also force more homeowners to live in a construction zone, while at the same time forcing purchasers to pay 100% in order to get the keys to the home. Forcing purchasers to pay 100% upfront while the home is incomplete/doesn't even meet the minimal OBC is unfair and unacceptable. Forcing more purchasers to accept incomplete homes will also have a negative impact on purchasers' quality of life while living in a construction zone. This is already a problem and it will get worse with this bill.

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Ontario's private home inspection industry remains unregulated, in turmoil, and is now in a state of serious decline since 2018 in terms of the number of private home inspectors working in Ontario. Legislation that was approved by the Wynne Government is collecting dust. It is almost impossible for homeowners to hire their own private home inspector who can cite Code violations in their reports.

Now, on to Tarion and HCRA. Since transferring the regulator function from Tarion to HCRA just over a year ago, the situation has worsened from a consumer protection perspective. Meanwhile, there is a significant increase in costs (e.g., a 40% increase in compensation for Tarion & HCRA executives and board members comparing 2020 Tarion and 2021 Tarion/HCRA. That equates to \$1.3 million in increased board/executive compensation expenses in one year.) Do you think that this is what Justice Cunningham envisioned with his Tarion Review recommendations – a decline in consumer protection and significantly increased executive and board member compensation in one year?

Tarion ceased operating as the regulator Jan. 31, 2021, yet its compensation for board members and executives remained about the same in 2021 compared to 2020. Why did this compensation not significantly decline given Tarion's significantly reduced mandate? For example, the Tarion board chair received a 35% compensation increase in 2021. Why did the Tarion board chair get a 35% increase in compensation in the same year that Tarion was stripped of many of its responsibilities? In 2019 there was a Toronto Sun headline that read: “New home warranty paid the execs, screwed the homeowners”. This still seems to be the situation at Tarion. Why is this being allowed to continue?

Despite all of the promises by the Ford Government related to fixing the ON Builder Directory, this directory is still seriously misleading for many builders. What has HCRA recently said it is going to do? Conduct a consultation about the ON Builder Directory. This is further unnecessary delay and a waste of money by HCRA. The only parties that benefit from this are marginal and bad builders.

In 2019 and 2020, Tarion transferred more than \$19 million to HCRA for start up costs. But in 2022, consumers are still not seeing improvements. It's important to note that this \$19 million largely came from mandatory monopoly payments from homeowners to Tarion.

MGCS is supposed to be providing oversight to these Administrative Authorities. MGCS gets paid millions of dollars annually for this oversight, but there is no transparency or accountability on how these funds are used. There is obviously serious concern with how MGCS is providing oversight – just read Auditor General reports regarding these AA's such as Tarion, the Electrical Safety Authority, etc.

All of these increased costs, plus the oversight fees paid to MGCS by AAs, are obviously negatively impacting the affordability of Ontario's housing.

HCRA and the Ministry of Government and Consumer Services (MGCS) continue to allow builders to secretly sell newly built homes with used/damaged furnaces even though we have a legal opinion that this practice contravenes the Ontario Consumer Protection Act.

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I make it a priority to personally talk to as many homeowners as possible who reach out to CPBH for help. These discussions are typically very difficult, with the homeowner often angry and/or crying. Physical health issues, mental health issues, financial issues – as a result of purchasing a newly built home in Ontario with Code violations, and fighting with their builder and mandatory monopoly warranty provider, Tarion. Tragically, some are considering/have considered suicide. Tragically, one homeowner did - as reported by the Toronto Star in 2019, Dr. Earl Shuman took his own life after battling Tarion for 27 years.

Ontario has moved in the wrong direction in the past four years when it comes to the quality of our housing stock, OBC violations, housing affordability and consumer protection. This is not progress - no one should feel good about this. Ontario must refocus and balance quantity with quality. Affordable homes are properly built homes.

Recommendations: What does the Ontario Government need to do now?

Mandate HCRA to conduct research related to improving housing quality as required in the 1976 Letters Patent for Ontario's New Home Warranty Program.

Develop and implement a serious plan to ensure that municipalities properly inspect during construction so that the OBC is met before the municipality issues the Occupancy Permit, e.g.,

- State-of-the-art training/apprentice programs and increased compensation for municipal inspectors.
- Serious penalties for municipalities related to OBC violations discovered once the home is occupied.

Regulate the private home inspection industry, ensuring that private home inspectors cite Code violations in their reports.

Establish a financial holdback to motivate builders to more quickly finish homes and properly repair Code violations.

Transfer the responsibility for the ON Builder Directory to MGCS with a requirement for the following information to be provided, e.g., as a minimum:

- All payments from Tarion, including customer service gestures
- All Code violations (health and safety)

- All payments made related to the seven year claims, for example including major structural defects, mould and radon (health and safety).

Prohibit builders from using furnaces for construction heat. They have other sources of heat. As a minimum, force builders to disclose to purchasers in the Agreement of Purchase that their furnace is used/may be damaged.

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Revoke Tarion's monopoly and establish a multi-provider warranty model, as Justice Cunningham recommended. If the Tarion monopoly continues, as a minimum the Ombudsman of Ontario needs to have jurisdiction over both Tarion and HCRA, and the Ombuds function currently operating within Tarion needs to be terminated.

Provide effective oversight to all Administrative Authorities, and accountability and transparency for the millions of dollars collected annually for mandatory oversight fees received by the Ontario Government.

Again, thank you for the opportunity to meet with you today. I will be happy to answer your questions.

Related links:

HCRA (and MGCS) continue to allow builders to secretly sell homes with used/damaged furnaces, despite a legal opinion that found that this practice contravenes the Ontario Consumer Protection Act. More here: <http://canadiansforproperlybuilthomes.com/wp-content/uploads/2021/03/Feb.-28-2021-Moher-Legal-Letter-of-Opinion-re-Consumer-Protection-Act.pdf> .

The vast majority of homeowners have lost confidence in the Licence Appeal Tribunal and will not go to the LAT to appeal Tarion decisions. With an 84% homeowner failure rate since 2006, this is understandable. More at this link: <http://canadiansforproperlybuilthomes.com/wp-content/uploads/2022/03/2021-final-LAT-Report.pdf> .

For more on Ontario Housing Policy Issues <http://canadiansforproperlybuilthomes.com/wp-content/uploads/2022/02/Feb.-11-2022-Final-Ontario-Housing-Policy-Issues-.pdf> .

Please submit questions/comments to: info@canadiansforproperlybuilthomes.com .

Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, independent, 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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