



Presentation to the Standing Committee on Justice Policy regarding
*Bill 142, An Act to enact the Consumer Protection Act, 2023, to amend the
Consumer Reporting Act and to amend or repeal various other Acts.*

Good afternoon:

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

As we consider much needed consumer protection for newly built homes, I'd like to be able to discuss serious issues with municipal inspections during construction, Tarion, the Home Construction Regulatory Authority, and indeed the Administrative Authority model itself. But I understand that these areas are out of scope today.

So instead I will focus on one of the most important components of a newly built home – the furnace.

Picture this: You've saved and saved, and finally can purchase a newly built home. You and your family move in – you are all so excited. A couple of months later, the temperature drops, and the furnace kicks in. A couple of weeks after that, your furnace stops working in the middle of the night. You wake up in the morning, and your home is freezing. This is happening in Ontario far too often.

For decades builders have been **secretly** selling newly built homes with used, and sometimes, damaged furnaces. This happens when the builder uses the new home's furnace for construction heat as the home is being built, even though there are other sources of heat that builders could use, such as portable construction heaters. Obviously this serious issue must be addressed through the enforcement of proper consumer protection legislation.



The Plumbing and HVAC magazine published an article entitled “Damaged during Construction”¹. That article included the following from a manager in a Mississauga HVAC company: *“...just about everyone agrees that using residential forced air furnaces for construction heat is a bad idea. Drywall dust and other construction debris leaves the new homeowner with what is basically a used furnace that may neither perform as intended nor last as long as it should..... The main problem is dust... Debris gets tossed down the supply and return ducts. It’s a mess...”*

Then there is this quote from the President of the Heating, Refrigeration and Air Conditioning Institute of Canada in that industry magazine: *“There have been so many issues with this; the biggest one being that the residential customer is taking over their new home and in actual fact they are not getting a new furnace. Who knows what kind of stress it has been under and for how long?...”*

In 2019, the CBC published a related article² and the following statement was from a home inspector: *“...Over time, drywall dust can cause a lot of damage to the bearings inside of the furnace fans. It can grind them down and wear them out...”*.

Please note that those quotes are all from people in industry.

CPBH receives a lot of complaints from homeowners about heating issues in newly built homes. People are usually shocked to find their furnace breaking down so early. To make matters worse, Tarion only offers a two-year warranty on heating systems. So, if there are a couple of mild winters when your furnace isn’t taxed, and then in third year of occupancy in your home, you hit a cold snap, Tarion will likely tell you that your warranty on your furnace has expired. In that

¹ Plumbing and HVAC magazine: “Damaged during construction”, by Simon Blake

<https://canadiansforproperlybuilt homes.com/wp-content/uploads/2019/08/Damaged-During-Construction-article.pdf>

² The Canadian Broadcasting Corporation: “Why your new home may come with a dirty, used furnace, Construction debris can damage HVAC systems, experts say” by Laura Osman, July 18, 2019

<https://www.cbc.ca/news/canada/ottawa/furnace-construction-1.5188006>



case, the homeowner is stuck not only with potential safety issues, and the inconvenience, but also the costs.

Homeowner Dave Myatt was quoted in the CBC article:

"I opened up the front of the furnace and it just looked like a bag of flour exploded in there," Myatt said. "The furnace filter was caked with drywall dust and debris."

Page | 3

The CBC article goes on to say: *"An HVAC repair company found drywall dust had entered the furnace's blower and infiltrated the motor, doing possible damage to the appliance. Myatt said he felt cheated. "You expect to have new windows, new doors..." he said. "The last thing you'd expect to have would be a second-hand furnace, or one that's damaged...."*

CPBH wrote to former MGCS Minister Thompson about this, and in 2021 she responded. Her main suggestion was for consumers to go to a lawyer to discuss remedies available to them. That, from the minister responsible for consumer protection.

CPBH obtained a legal opinion³ that said that builders secretly selling used furnaces in newly built homes contravenes the existing Consumer Protection Act. It seems that lack of enforcement is the issue. We understand that under the existing Act, enforcement is primarily the responsibility of the consumer. This is obviously not a reasonable or appropriate approach for the ministry to take for something as important as a furnace, in a country with winters like Canada.

As I start to wrap up, I'd like to leave you with another example: During the pandemic, CPBH received an email from a desperate mother of a newborn baby. They were living in newly built home, and the furnace broke down in a cold snap. The mom was frantic as they could not find a repair company to come to for almost a week. The mom said that to keep the newborn warm,

³ Legal opinion from Brian Moher, Barrister, re "Consumer Protection Act, 2002 – Used and Potentially Damaged Furnaces", Feb. 28, 2021:

<https://canadiansforproperlybuilt homes.com/wp-content/uploads/2021/03/Feb.-28-2021-Moher-Legal-Letter-of-Opinion-re-Consumer-Protection-Act.pdf>



the baby was sleeping in the bed with the parents. Imagine that. Would that be acceptable for you, or anyone in your family?

Purchasers of newly built homes need – and deserve – adequate consumer protection legislation for their furnaces. It's CPBH's position that it is not acceptable for the Ministry responsible for consumer protection to simply tell consumers to get a lawyer. That is not consumer protection.

CPBH requests:

- Amend Bill 142 to prevent builders from using furnaces in newly built homes for construction heat, and ensure that this is enforced by the Ministry.
- If that is not possible, amend Bill 142 to at least require builders to disclose in the purchase agreement that the furnace has been used during construction, again, with enforcement via the Ministry – not consumers.

I will be happy to address questions. Thank you.

Please submit questions/comments to: info@canadiansforproperlybulthomes.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).

Website: www.canadiansforproperlybulthomes.com Twitter: @cpbh01

Facebook: <https://www.facebook.com/pages/Canadians-for-Properly-Built-Homes/1613240682226191>

