



Consumer Protection Ontario
Policy, Planning and Oversight Division

**Ontario New Home Warranties Plan Act and Tarion Review:
A summary of Justice Cunningham's Interim Progress Report**

Current Status:

- On July 22, 2016, the Justice Cunningham provided his Interim Progress Report.
- The ministry has committed to posting it on Ontario.ca, for public comment.

Interim Progress Report:

- Notes home building, buying and warranty processes are complex.
- Summarizes what Justice Cunningham has heard to date.
- Outlines some preliminary options; not meant to be exhaustive.
- Does not set out any specific recommendations.
- Notes that while Tarion continues to improve, all stakeholders have identified opportunities.
- The report is organized around the following eight topics:

1. Tarion's role and business model

- Some believe that Tarion's multiple roles (e.g., warranty provider, regulator, adjudicator, rule-maker) creates a perception of a conflict of interest; others believe there may be synergies and benefits in having a single entity perform all functions.
- Some suggest that Tarion, as sole warranty provider, has little incentive to improve; others suggest it allows for consistent delivery and effective management, maintaining low costs for consumers.
- Justice Cunningham will consider whether Tarion should continue to perform all of the functions it does today and whether it should remain the sole provider.
- *Tarion's perspective: Does not believe their role as regulator and warranty provider presents a conflict of interest and has expressed concerns about a multi-provider model.*

2. Dispute resolution process

- A key concern for Justice Cunningham and the primary homeowner concern.
- He is looking at opportunities for improvement in several areas and will consider whether Tarion's role in adjudicating warranty claims should be removed.



- *Tarion's perspective: Notes a number of actions they have/are taking in this area.*

3. Consumer education

- He will consider what type of education should be provided, by whom and in what format.
- *Tarion's perspective: Notes a number of actions they have/are taking in this area.*

4. Warranty coverage and duration

- Stakeholders are questioning the adequacy of the current coverage.
- He will review Tarion's process for assessing coverage amounts and the duration.
- *Tarion's perspective: Notes a number of areas they are reviewing including limits for deposit coverage for freehold homes.*

5. Regulation of builders and vendors

- Justice Cunningham notes this is a critical function and identifies options related to the initial registration and renewal process, builder education, compliance tools and the Builder Directory.
- *Tarion's perspective: Interested in additional compliance tools.*

6. Board governance

- Despite Tarion having diversified the composition of the Board of Directors, many continue to perceive it to be builder dominated and motivated to favour builders.
- Justice Cunningham will consider options to diversify the Board and modify the selection processes.
- *Tarion's perspective: Board believes it should continue to elect the Chair and Vice-Chair.*

7. Accountability, transparency and oversight

- Stakeholders expressed a desire for greater accountability, transparency and oversight.
- Justice Cunningham will consider options relating to external oversight, the government's role and disclosure of information.
- *Tarion's perspective: N/A*

8. Other

- Other issues raised include: lack of clear definitions in the act, illegal building, need for more condominium specific provisions in the act, Tarion's organizational structure, lack of Tarion representation in smaller communities, and lack of transparency about Tarion's Consumer Advisory Council and the builder liaison committee.
- *Tarion's perspective on several of these items is noted.*

Next Steps:

- Complete French translation, conformance to accessibility requirements and confirm Tarion's communications strategy.
- Post on Ontario.ca: week of August 15 or 22, seeking feedback by September 30, 2016.
- MGCS, as a stakeholder, is proposing to prepare a considerations paper that would be provided to Justice Cunningham. Minister approval of the document will be sought.