



## A Brief Report Related to the Licence Appeal Tribunal (LAT) and Tarion 2006 - 2024

### Submitted to:

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Issued April 1, 2025

### ***“The LAT: The Place that Fairness Forgot”***

Please submit response, questions/comments to: [info@canadiansforproperlybulthomes.com](mailto:info@canadiansforproperlybulthomes.com) .

Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, not for profit consumer advocacy 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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Contents

Introduction..... 3
Overview of Homeowners’ Success at the LAT re Tarion in 2024 ..... 4
Overview re Homeowners’ Success at the LAT re Tarion - 2006 to 2024..... 5
Why do so few homeowners go to the LAT to appeal Tarion decisions?..... 5
What happens when people refuse to go to the LAT to try to resolve disputes with Tarion and/or lose at the LAT? ..... 5
CPBH’s previous recommendations stand: ..... 6
Tarion’s mediation – Homeowners’ satisfaction continues to be secret ..... 6
A note of thanks to the NDP Critic and the Liberal Critic ..... 6

## Introduction

Since 2004, Canadians for Properly Built Homes' (CPBH) volunteers have been engaged related to Ontario homeowners appealing Tarion's decisions at the Licence Appeal Tribunal (LAT). Over the decades, CPBH efforts have included:

- Participating as homeowners fighting Tarion decisions at the LAT;
- Observing hearings in person and on-line;
- Studying LAT decisions;
- Communicating with:
  - o Countless homeowners who considered going to the LAT to fight Tarion decisions but who decided not to proceed;
  - o Countless homeowners who did appeal Tarion's decisions at the LAT, including some who dropped out part way through, e.g., due to perceived unfairness, some who settled with Tarion once in the LAT process, and others who pursued it to the end, i.e., receiving an LAT decision;
  - o LAT officials in person, by letter and by email;
  - o Attorney Generals of Ontario in person, online, by letter and by email;
  - o Other officials in person, online, by letter and by email.
- Offering tips to homeowners to try to help them increase their chance of success, e.g., <https://canadiansforproperlybulthomes.com/wp-content/uploads/2025/03/Mar.-2025-LAT-Tips.pdf>.

Since 2006, CPBH has conducted an annual analysis of the LAT's decisions concerning homeowners' appeals of Tarion's decisions<sup>1</sup> and prepared a related report. Those reports have been made available to the public and were sent to numerous officials each year.

These significant efforts have resulted in ongoing serious concerns about the lack of fairness/perceived unfairness in this LAT process. LAT officials agreed that lack of fairness – or even a perception of the lack of fairness - is a serious concern for an organization like the LAT.

Others have also agreed that there are serious problems with the LAT's in relation to appeals of Tarion decisions. For example:

*"...A less litigious and adversarial process would also address concerns the ministry has heard from homeowners that they are dissuaded from pursuing LAT appeals because the existing processes are not transparent, and are complicated, time-consuming, costly and unbalanced..."*

F. Denton, Assistant Deputy Minister of the Ministry of Government and Consumer Services, Oct. 7, 2014.

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<sup>1</sup> For previous years' reports, please go to <https://canadiansforproperlybulthomes.com/what-weve-learned/dispute-resolution/> and scroll down to the bottom of the page.

*“...clear evidence that the LAT lacks the ability to be an impartial arbiter of disputes between homeowners and Tarion....”*

MPP L. Collard, Liberal Party Critic for the Attorney General, Ontario Legislature, June 6, 2024

*“...Regrettably, I have heard from many Ontarians that the LAT’s reputation as a fair adjudicator is called into serious question....”*

MPP K. Wong-Tam, NDP Critic for the Attorney General, letter to Attorney General Downey, Aug. 7, 2024.

Yet, unacceptably, ongoing serious problems persist today.

CPBH’s recommendations summarized later in this report are offered to address these issues.

## Overview of Homeowners’ Success at the LAT re Tarion in 2024

Once again, in 2024, Ontario’s purchasers of newly built homes overwhelmingly decided to not go to the LAT to fight Tarion. There were only 13 LAT decisions in 2024, and three of the decisions related to the same homeowners (appellants).

There were 17 items in total concerning these 13 decisions in 2024, and only three were successful. Two of the three items that were successful involved a lawyer representing the homeowners. The remaining cases were self-represented.

In 2024, there were 13 LAT decisions, involving 17 items in total. Homeowners won three items resulting in a success rate of 17.6%.

Additional 2024 highlights:

- In one of the cases in which the Tribunal supported the homeowner - and ruled against Tarion - it said: *“...The Tribunal notes that the Act is consumer protection legislation and is to be interpreted liberally to provide that protection...”*.
- In some decisions, the LAT continues to rule against homeowners using Tarion’s Construction Performance Guidelines, which have not been independently assessed for appropriateness. CPBH has raised this with Tribunals Ontario and the Attorney General of Ontario, Minister Downey, previously, yet this practice continues. (In 2024, the Liberal Party Critic, MPP Collard, and the NDP Critic, MPP Wong-Tam also raised this issue with the Attorney General.)
- One case involved a “reconsideration decision”. It was the same adjudicator involved in the original case who reconsidered the second time. Again, the homeowner lost. How is it appropriate that the same adjudicator reconsidered this matter the second time? Should the LAT not assign a different adjudicator to review cases like this?

- While homeowners can self-represent, the LAT is a quasi-judicial body, and the requirements are often quite legalistic. For example, in one of the cases, “...Tarion adds that the appellant’s documents exceeded the 500-page limit and were not organized in accordance with the CCRO (a single PDF copy, indexed, tabbed and page numbered)...”. Tarion always has legal representation at the LAT and homeowners who choose to self-represent are typically at a considerable disadvantage. (Some homeowners have told CPBH that they cannot afford to hire a lawyer to represent them, but Tarion has access to considerable resources, i.e., mandatory fees collected from homeowners when they purchase a newly built home. This is another example of the lack of a level playing field for homeowners at the LAT.)

## Overview re Homeowners’ Success at the LAT re Tarion - 2006 to 2024

Ontario’s purchasers of newly built homes **have lost 83.8%** of the items appealed at the LAT in relation to Tarion’s decisions from 2006 to 2024.

Since 2006 there has been a significant decline in the number of Ontarians that are interested in pursuing appeals of Tarion decisions at the LAT. Is it any wonder that the vast majority of Ontarians will not go to the LAT to fight Tarion’s decisions given these historical outcomes?

Also, most people continue to be shocked to learn that the LAT does not have the ability to enforce its own decisions. This seriously impacts the credibility of the LAT. CPBH has raised this issue with several authorities over the years, including Minister Doug Downey, the current Attorney General of Ontario, but this situation remains.

### Why do so few homeowners go to the LAT to appeal Tarion decisions?

Please refer to our 2022 report for CPBH’s perspective on this:

<https://canadiansforproperlybulthomes.com/wp-content/uploads/2023/06/2022-LAT-Report-final.pdf> .

### What happens when people refuse to go to the LAT to try to resolve disputes with Tarion and/or lose at the LAT?

Please refer to our 2022 report for CPBH’s perspective on this:

<https://canadiansforproperlybulthomes.com/wp-content/uploads/2023/06/2022-LAT-Report-final.pdf> .

## CPBH's previous recommendations stand:

- The Government of Ontario must immediately replace the LAT for these appeals as this is a critical component of the consumer protection and justice system;
- The replacement organization must have:
  - o Adjudicators with specialized training related to new home construction, as well as appropriate training related to working with self-represented litigants;
  - o Operational processes that are fair, efficient, transparent and easy to navigate;
  - o The ability to enforce its own decisions;
  - o An independent review of whether Tarion's construction performance guidelines are appropriate to be used by the LAT in adjudications, and if it is determined that they are not, another means of assessment that is fair and appropriate; and
  - o A substantial public relations campaign to help restore faith in this aspect of Ontario's legal system.

## Tarion's mediation – Homeowners' satisfaction continues to be secret

In our 2023 report, we provided considerable information regarding Tarion's mediation:

<https://canadiansforproperlybulthomes.com/wp-content/uploads/2024/04/2023-LAT-Report-Final-April-7-2024-1.pdf>

Some homeowners continue to advise CPBH that Tarion seems to be aggressively "pushing" mediation or the LAT instead of Tarion trying to resolve issues directly with homeowners. This is contrary to Tarion's stated "values" of "solution-seeking", "service oriented", "caring" and "service oriented".

Tarion's website reports that in 2024, 143 cases (homeowners) pursued mediation. But Tarion still does not share any information regarding the homeowners' satisfaction with Tarion's mediation process. CPBH has written to Tarion and the Ministry of Public and Business Service Delivery about Tarion's lack of transparency in this regard. For example, Tarion could hire a third-party to request that homeowners provide their level of satisfaction with Tarion's mediation. Transparency in this regard is essential for homeowners to make an informed decision as to whether to pursue Tarion's mediation process. (It is important to note that to participate in Tarion's mediation process, homeowners must sign a non-disclosure agreement.)

## A note of thanks to the NDP Critic and the Liberal Critic

In 2024, both the NDP Critic for the Attorney General, MPP Wong-Tam, and the Liberal Critic for the Attorney General, MPP Collard, raised concerns with Attorney General Downey, e.g., questions of fairness for homeowners at the LAT – and requested that Minister Downey take action. CPBH very much appreciated the support of MPP Wong-Tam and MPP Collard.