



Newsletter
Canadians for Properly Built Homes

Properly Built Times

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"We share values, things like kindness, compassion and a deep sense of fairness."

Justin Trudeau, Canada Day Address, July 1, 2016, <http://www.cbc.ca/beta/news/politics/canada-day-trudeau-parliament-hill-1.3661718>

"Ultimately, outside of a few partisans, Canadians have an overwhelming sense of fairness. They won't begrudge a cabinet minister a glass of orange juice, but they'll demand her resignation if it costs \$16."

<http://www.cbc.ca/beta/news/politics>
<http://ottawacitizen.com/opinion/columnists/why-trudeaus-nannies-matter>

Mark Sutcliffe, Published December 3, 2015

"Fairness for the Middle Class" is a title in the Liberal Platform on which the party campaigned:

<https://www.liberal.ca/files/2015/05/Fairness-for-the-Middle-Classpdf>

Our Profoundly Offended Sense of Fairness

Canadians' sense of fairness is something we have been hearing about a lot over the past year. We heard the Prime Minister refer to our "deep sense of fairness" in his Canada Day address just the other day. Enter "sense of fairness" and the name of the political leader of your choice into your favourite search engine and it is highly likely you will get a number of hits. Kathleen Wynne certainly talks about fairness. Remember that CPBH is non-partisan and proud of it, but the governments in power are the ones who can make the changes we seek. We work with anyone who is willing to help advance our cause.

We are delighted to be able to say that all of these references to fairness are backed up by solid research – and you know how strongly feel about research at CPBH! In this case, it was conducted by the University of Waterloo and is reflected in their Canadian Index of Well-being: <https://uwaterloo.ca/canadian-index-wellbeing/about-canadian-index-wellbeing/reflecting-canadian-values>. In fact, their list of Canadian values has fairness at the top of the list.

We can't tell you how proud we are to be Canadian and wholeheartedly agree that Canadians have a high regard for fairness.

But we also have to say that our sense of fairness, and that of thousands of CPBH supporters and homeowners who contact us, has been profoundly offended by the way the Tarion monopoly conducts its business. That is the basis for our participation in the Tarion Review and the campaign to #EndTarionMonopolyNOW, as other provinces have done. Restoring a competitive market to Ontario for new home warranties is all about fairness for consumers.

The big news in this issue is the release of our Ten Year Analysis on LAT outcomes. Where homeowners have found the strength, tenacity and resources to appeal Tarion decisions to the Licence Appeal Tribunal (LAT), we are sorry to say that our ten years of analysis <http://tinyurl.com/z7faq8v> shows that the LAT appears to be the place fairness forgot. Beyond that, the LAT's April 1, 2016 "Revised Rules of Practice and Procedure" are regressive and deeply unfair. With dismissal of a case without a hearing and the removal of the cap on costs, it would not surprise anyone if homeowners stopped going to the LAT altogether, particularly in light of the fact that it is not possible to enforce LAT decisions, even if you get one.

We hope you will take the time to read this new report. It is more than statistical analysis. It includes the stories of how families' lives are affected by these processes that do not work and should be replaced. Look at the case study, the news rules

imposed by the LAT. How can this be happening in Ontario in the 21st century? We hope you will share this with your networks, write to your MPP, the Auditor General, the Ombudsman, Justice Cunningham, your mayor and more. Please join us on Facebook and Twitter. We appreciate every Like, Retweet and comment and petition signature.

Justice Cunningham's interim report writing is underway. Now is the time!

And please make a donation to CPBH today. Our work is only possible with your help:

http://www.canadiansforproperlybuilthomes.com/html/getinvolved/ways_to_get_involved.html#Donations

Karen Somerville and Alan Greenberg, Co-Founders



#EndTariMonopolyNOW



Tenth yearly analysis of Licence Appeal Tribunal outcomes for consumers is now public: the tyranny continues

We are pleased to announce the release of CPBH's 10-year analysis of consumers' appeals of Tarion's decisions at the LAT: <http://tinyurl.com/z7faq8v>. Many thanks to the multi-talented volunteers who have made this report possible this year and every year since 2006.

At the same time, we are saddened to report the continuing dismal and worsening outcomes for homeowners, such as an 83% consumer failure rate. It is statistically impossible for consumers to be wrong that often. The procedural unfairness, the heavy contingent of lawyers always present for Tarion and builders, the lost transcripts, the bullying and the appeals to the Government of Ontario in the legislature have all taken their toll on consumers and sent a message to all concerned: Don't come to the LAT for justice on Tarion decisions. You will not find it here.

The Ontario Government's own Assistant Deputy Minister at Government and Consumer Services, Frank Denton, signalled to Tarion's President that "...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...".

Key Highlights for the 10-year period from 2006 - 2015

- Significant Decline in Number of Homeowner Appeals - The number of homeowner appeals has dropped significantly over the 10-year period (from a high of 267 in 2006 to 25 in 2015).
- Homeowners Lose in Overwhelming Numbers at the LAT, for cases that proceed to the Decision Stage - Over the past decade homeowners lost 83% of the total items appealed at the LAT. The years 2015, 2014, and 2011 were particularly disastrous for consumers as they lost 91%, 93% and 94% respectively.
- Virtually Impossible for Homeowners to Win Major Structural Defect Appeals at the LAT – Over 10 years, 60 Major Structural Defects have been appealed at the LAT. Two cases were won, in 2007 and 2010. All other 58 attempts failed resulting in a 97% failure rate.
- Most Homeowners are Self-Represented but Tarion always has legal representation.



LAT's new rules of practice and procedure effective April 1, 2016 add insult to injury for homeowners seeking justice

Things have worsened given the LAT's new rules that came into force April 1, 2016. Now, in addition to all of the other reasons for the expected 93% failure rate you will find in our Ten Year Analysis <http://tinyurl.com/z7faq8v>, homeowners will have to deal with the potential for their case being dismissed without a hearing, as well as the removal of the cap on costs. It was previously \$1,000 per day. Now *any* cost can be assigned to you. Who takes a deal like that? Nothing says stay away like a threat like that.



You may be also interested to know that LAT's Orders Not Always Followed - Consumers say that even though they "won" at the LAT, the LAT's orders were not followed and it was impossible to enforce them. Here's an example: <http://canlii.ca/t/gf0qn>. What is the point in consumers taking their disputes with Tarion to the LAT, if Tarion does not respect the LAT's order?

As well, *SLASTO/LAT Officials Acknowledge Operational Problems at the LAT* - In December 2014, in a meeting with CPBH representatives, the SLASTO Executive Chair (Ms. Linda Lamoureux) and other officials of SLASTO/LAT acknowledged a number of serious operational problems at the LAT. CPBH raised serious concerns about Ontario's homeowners continuing to face a legal system that clearly is not functioning properly: ".....We remain very concerned that there are consumers caught up in this LAT system that is currently less than adequate for consumers. It appears that it is not fair – or appropriate - for consumers to proceed to the LAT, given what we have heard directly from many consumers,

what our annual analysis has revealed, and most recently, these serious shortcomings acknowledged by SLASTO/the LAT at the December 9, 2014 meeting...."

Read more about the place fairness forgot in Appendix 3 of our report. We remain shocked that the Government of Ontario officials who are in a position to do something about this, and have been informed about the problem repeatedly, have ignored it for the full 10 years we have been producing the report. It remains within the provincial government's power to right this wrong. Our new Attorney General Yasir Naqvi's sense of fairness should turn his attention to this problem.

The number of cases brought to the LAT over 10 years fell from 267 to 25 in 2015. How many do you think there will be in 2016?

And finally, who benefits from this situation? Tarion and the builders, that's who.



About CPBH

Canadians for Properly Built Homes (CPBH) is a 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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