



**A Report Related to the Licence Appeal Tribunal (LAT) and Tarion
(in relation to Tarion’s administration of the Ontario New Home
Warranty Plan Act)**

2006 - 2019 - Analysis

Issued May 22, 2020

“The LAT: The Place that Fairness Forgot”

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

Founded in 2004, 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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Prepared by  Canadians for Properly Built Homes

Report related to the LAT Decisions and the *Ontario New Home Warranties Plan Act*
Analysis of the period 2006-2019

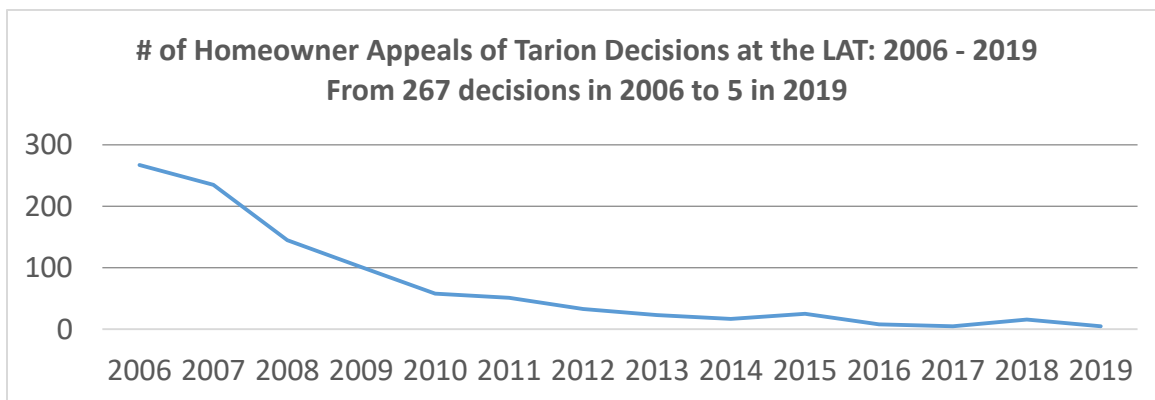
Executive Summary

Tragically, Ontario's consumers have reached a new low in fighting the Tarion Warranty Corp. (Tarion) at the Licence Appeal Tribunal (LAT). Since Canadians for Properly Built Homes (CPBH) started doing this analysis in 2006, 2019 was the worst year for Ontario's purchasers of newly built homes. Only five cases (that involved 22 issues) went to the Decision stage in 2019. ***New home purchasers did not win a single issue out of these 22 issues, i.e., a 100% failure rate in 2019.***

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In 2019, none of these homeowners retained the services of a lawyer – they were all self-represented. Tarion is ***always*** represented by lawyers/paralegals.

When CPBH started this analysis in 2006, there were 267 cases related to Tarion that went to the LAT Decision stage. The following graph shows the steep decline in LAT decisions re Tarion over the years.



A number of officials have acknowledged the serious operational issues at the LAT. Examples of LAT operational issues include missing transcripts, the perception that the LAT often gives Tarion preferential treatment over consumers, and allegations of bullying of homeowners by an LAT adjudicator. One knowledgeable observer called the LAT system “inhumane”.

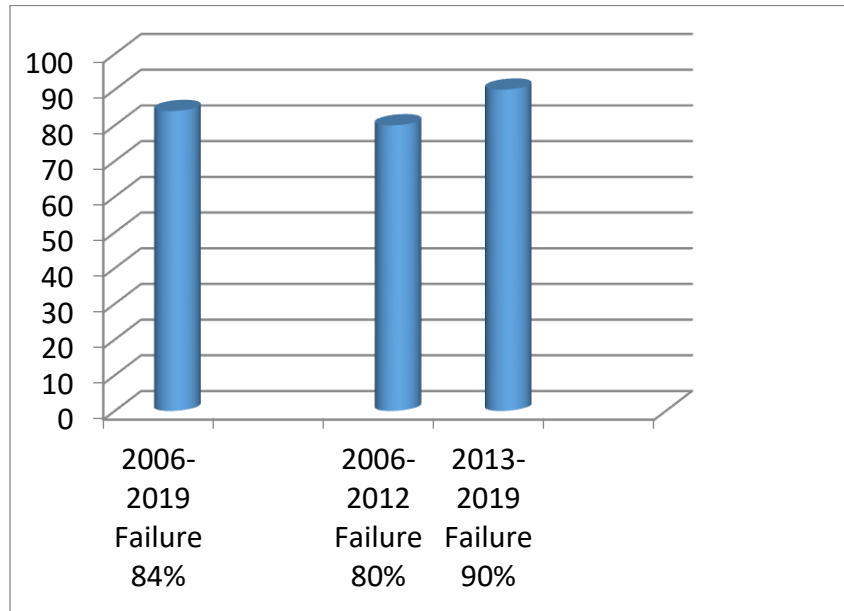
Consumers continue to advise CPBH that they have lost confidence in the LAT as a way to appeal Tarion's decisions, and obviously most no longer go there to resolve their disputes. Meanwhile serious complaints about Tarion itself continue to be highlighted in the media, Justice Cunningham's 2016 Tarion Review report, the 2019 Auditor General audit of Tarion and homeowner complaints directly to CPBH.

The result is that access to justice continues to worsen for homeowners who want to appeal Tarion's decisions. CPBH's analyses show that for the period 2006 to 2019, homeowners lost 84% of the items that they took to the LAT. For the first seven years of this analysis (2006 to 2012), homeowners were successful in 20% of the items. But in the seven-year period 2013 to 2019, homeowners only were successful in 10% of the items. Perhaps the reason for the lower success rate is that homeowners used lawyers and technical experts less in the period 2013-2019 than they did in the period 2006-2012. But as noted above, there are likely operational issues contributing to the worsening failure rate being that cannot be gleaned from the information presented in CanLii (where the LAT's decisions are posted).

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Homeowner Failure Rate When Fighting Tarion at the LAT - 2006-2019



In Justice Cunningham's 2016 Tarion Review report, he said: "...Where there is a dispute, a dispute resolution process must not only deliver justice but also be seen to deliver justice....". But the Ontario Government has still not addressed this very serious matter of the LAT's operational problems.

It is also important to note that in addition to the operational problems at the LAT, the LAT has no authority to enforce its orders. There have been cases in which the homeowner was successful at the LAT, but Tarion did not follow the LAT's orders. For many years now CPBH has highlighted the need for new legislation to give the LAT authority to enforce its own orders. But no action has been taken.

Further, despite many repeated requests by CPBH over the years, although these organizations have jurisdiction over the LAT, neither the Auditor General of Ontario nor the Ombudsman of Ontario has investigated these serious operational issues at the LAT.

In 2018 former Attorney General Naqvi advised CPBH that his ministry was "monitoring" this situation. In 2019 CPBH volunteers met with former Attorney General Mulroney, but she did nothing to address these issues.

How can this situation be continuing in Ontario?

Clearly, to refer back to Justice Cunningham's words noted earlier, the LAT does not deliver justice – nor is it seen to deliver justice - for new home warranty appeals related to Tarion.

CPBH's position remains that the Government of Ontario must immediately replace the LAT for appeals of Ontario's new home warranty decisions.

CPBH continues to request a meeting with the current Attorney General, Minister Downey.