

CPBH's Statement related to Improving Consumer Protection in Ontario Responding to the Consultation Paper on Modernizing the Consumer Protection Act, 2002

Canadians for Properly Built Homes (CPBH) has provided considerable input to your Ministry, now called Public and Business Service Delivery (PBSD), and its numerous Ministers over the past 19 years. This input has primarily concerned Tarion, the Home Construction Regulatory Authority (HCRA), the Licence Appeal Tribunal (LAT) and the Consumer Protection Act itself. Sadly there are still very serious issues with the Act, these Administrative Authorities and the LAT.

Unfortunately, over the years it has become clear that Ontario's consumers are not being adequately protected by your ministry, PBSD. Further, the Administrative Authority (AA) model is fundamentally and seriously flawed. Our position is that the Consumer Watchdog, proposed in Bill 77, 2021 is the best model for consumer protection in Ontario. That said, we recognize that the issues with PBSD, the AA model in general, Tarion, HCRA, etc. are beyond the scope of this consultation.

We note these statements in particular in your background document concerning this consultation:

"...The CPA's rules support a fair and competitive marketplace where consumers make their own choices without being subject to unfair business practices. Unfair practices, such as making false, misleading, deceptive or unconscionable representations, impede a consumer's ability to make free and informed choices.

It is illegal for a business or individual to give a consumer false information about themselves or the product or service they offer..."

We again raise the specific issue of builders secretly selling used/damaged furnaces in newly built homes. This issue has been reported in the main stream media:

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

It has also been reported in an industry publication:

[Damaged during construction - Plumbing & HVAC \(plumbingandhvac.ca\)](https://www.plumbingandhvac.ca/damaged-during-construction)

We have written to your ministers/deputy minister/ministry previously about this serious issue concerning used/damaged furnaces being secretly sold in newly built homes. As we have advised you, we have a legal opinion that this practice contravenes the Consumer Protection Act that is already on the books. Here is the link to the legal opinion that we obtained in 2021 and promptly provided to your ministry:

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

CPBH's position continues to be that this practice of selling used/damaged furnaces in newly built homes must stop immediately. Builders have other sources of heat during construction.

As a minimum, if this practice of selling used/damaged furnaces in newly built homes is allowed to continue, in order to comply with the Consumer Protection Act, builders must be required to disclose this to potential purchasers in advance of the purchase, e.g., in the Agreement of Purchase.

It is imperative that your Ministry enforce the laws. As noted above from your background statement:

“It is illegal for a business or individual to give a consumer false information about themselves or the product or service they offer...”.

Secretly selling used/damaged furnaces in newly built homes is false information – consumers purchasing a newly built home rightfully expect that it will come with a brand new furnace. Why isn't your ministry enforcing the existing law in this regard? We are requesting a response to this question from your ministry. There is no point in creating/changing legislation if it is not going to be enforced.

Thank you for the opportunity to provide this input.

Please submit your response/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).

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