

Her new home had a warranty, but five years in, she's still battling for help to fix it. Why some home buyers say Ontario's consumer watchdog is broken

Tarion says it has been reformed after years of problems. The Star spoke to new home buyers who say otherwise.



May 25, 2024

Marie-Josée d'Amours has had issues with her new build townhome ever since she moved in. A leaky skylight and poor heating have plagued her house, but she's had difficulty getting coverage from Tarion, Ontario's consumer protection agency for new builds. Even since Justice Cunningham's 2017 report on Tarion's inefficiencies and recommendations to reform the agency, homeowners are still running into the same problem with Tarion time and time again — a convoluted claims process, that many homeowners feel protects the builders not the homeowners.

Ramon Ferreira Toronto Star illustration using DREAMstime images



By [Clarrie Feinstein](#) Business Reporter

Marie-Josée d'Amours has been in a battle with Tarion since the summer of 2019 and doesn't see an end in sight.

She moved into a newly built townhome in Toronto in 2019 and not long after noticed a myriad of problems, the most serious being poor heating and a leaky skylight. She turned to Tarion, Ontario's consumer protection organization for newly built homes, but says it has only made things worse — dragging out the case and offering conflicting accounts of the house's issues.

“During the first two years in the home, I was a mess. The stress was keeping me awake,” she said. “Taking on Tarion has been a part-time job on top of my full-time job.”

In 2019, Tarion was subject of a [scathing auditor general report](#) that found the consumer agency was putting [builders' interests ahead of consumers](#). In response, the Ontario government proposed a slate of changes to streamline the claims process for homeowners, improve the warranty coverage, and change the executive leadership to “address the perception of builder dominance on the board,” the government said.

Since then, Tarion says it has reformed the agency, with a main goal to rebuild consumer confidence by improving response time, transparency, and the dispute resolution process. But five years after the auditor general's report, homeowners say they continue to fight with the agency to receive coverage they're entitled to.

The Star spoke to seven homeowners of newly built homes who say the process is still too complicated to navigate, can take years for claims to be investigated (some of these homeowners have been dealing with Tarion for five or more years), and that it's an uphill battle to receive any type of coverage. The emotional toll can be immense, homeowners say, as the stress and despair can take over their lives.

But Peter Balasubramanian, who became CEO of Tarion in 2020, said Tarion has "responded proactively" to the auditor general review in 2019, taking numerous steps to improve the organization.

"We play a role to support people in difficult situations and work with people to make the process easier, finding ways to make sure homeowner experiences are positive. It's about communication and moving forward," he told the Star.

"If you look at the trajectory of our organization it isn't one that's hiding, it's open to criticism and tackling these challenges makes our industry better."

'Problems with Tarion go back decades'

In her case, d'Amours says it took years of going back and forth with Tarion and her builder before the consumer watchdog finally did a roof inspection with an engineer in 2023. That engineer, she said, found that the roof had Ontario building code violations — the builders didn't properly construct the roof's slope and there was a missing drainage gap, causing the water to pool, according to the engineer's report. Tarion denied her claim of there being a major structural defect, so she appealed it.

Tarion requested a more in-depth inspection be conducted, which was done many months later, but the findings were similar to the first

inspection. And even though Tarion's experts concluded that water under the waterproofing was pooling in the roof and could result in premature deterioration of the concrete layers on the roof, as outlined in the engineer's report, Tarion denied her warranty claim.

"They told me that my roof was fine even after their own engineers said it was in violation the Ontario building code and was not in line with industry standard," she said.

"They stretch out the process to deter you," d'Amours said. Finally, an executive member of Tarion reopened her case in April after saying it was poorly handled, but d'Amours hasn't seen much progress so far. "They said they would get back to me if they had questions, but then, nothing."

A Tarion spokesperson said it would "not be appropriate to speak to specifics of a homeowner's claim" but they "welcome the opportunity to speak with this person directly."

Karen Somerville, president of the national not-for-profit Canadians for Properly Built Homes (CPBH), says despite Tarion's claims of reforms she is still helping many homeowners, and says Tarion hasn't done enough to protect buyers of newly built homes.



Karen Somerville, president of Canadians for Properly Built Homes, says despite Tarion's claims of reforms it still hasn't done enough to protect buyers of newly built homes.
Blair Gable for the Toronto Star

"Problems with Tarion go back decades," said Somerville, who cofounded CPBH in 2004. "It can take Tarion years to investigate the claims and if the claim is accepted it can take years to get the home repaired. So homeowners can't even enjoy the home they bought."

Balasubramanian said he and the organization empathize with homeowners who are in difficult situations.

"This is why I work in this space," he told the Star. "Housing and giving people a home is incredibly emotional, impactful and important. We have an organization of over 300 people and everyone that works at Tarion is a homeowner and consumer and everyone understands how fundamentally important your house is."

In an email, the agency listed at least 20 action items undertaken since 2019 to improve consumer protections, which include an improved governance structure reducing the number of individuals with industry

ties on the board; improved independence of the internal ombuds office; creation of a temporary relocation warranty to give homeowners compensation when they need to leave their home during repairs; and an improved claims process that's more flexible, transparent and easier to navigate.

In 2023, a consumer satisfaction survey found that 85 per cent of respondents who made claims had a positive experience with Tarion, the spokesperson added. In any given year Tarion might expect to receive as many as 50,000 warranty lists (a list of items that homeowners want their builder to address under the warranty) and about 70 per cent of completed inspections include at least one finding in favour of the homeowner, they added.

STAR INVESTIGATION

'Should have been disclosed': Tarion launches internal review over concerns about mediators' past ties to the agency

"In hindsight, I wish we'd given it more thought at the beginning when we set up the program," Tarion's CEO said.

But Alex Patinios, who's become a de facto consumer advocate [since having to fight to get compensation from Tarion more than 10 years ago](#), says while Tarion has made some changes and claims to have streamlined the process, it's still complicated and takes a lot of time and money to get warranty coverage.

"It appears to me that Tarion is for builders by builders, that has not changed," said Patinios, who regularly fields calls from homeowners for assistance. "Homeowners come to me year after year with the same problems."

Balasubramanian urged critics to look at more current materials as “some of the feelings people have predate the changes” and the organization is embracing new ways to make the process better.

Long wait times

One of the most commonly cited complaints is the excessive time it takes to investigate claims, homeowners told the Star.

Frank McInnes’ newly built home in Nestleton, Ont., a town close to Port Perry, had multiple issues because his builder walked off the job, leaving the grading of the property, the roof, eavestroughs and other important items unfinished. So in February 2020 he filed a 30-day form to Tarion (homeowners can list unresolved issues with the property in the forms, which must be filed within 30 days of taking possession; there are also one-year, two-year and seven-year warranty periods for homeowners, with each period covering different types of claims.)

“It took them more than two years to get the 30-day form looked at and reviewed,” said McInnes.

Initially, Tarion wouldn’t cover the items as the homeowners were in the process of getting them fixed — but the couple say they had to be proactive as the home wasn’t livable due to the builder not finishing the project.

“We had an incredibly long email chain of the rationale, pushing and chasing them because you have to be on top of it,” he said.

Tarion said in situations where there is “an emergency issue” and the builder is not responding, a homeowner can take steps to address the issue and will still be eligible for coverage. But for non-emergency issues, such as a “misaligned door” the builder must be given the opportunity to repair the problem and if there’s a dispute, Tarion must be able to

inspect it to make an assessment. If the homeowner doesn't first ask the builder to fix the problem, the warranty coverage could be voided, the spokesperson said.

In that initial 30 days, McInnes said he had to basically become an inspector to find all the deficiencies in the home, which puts unreasonable pressure on the homeowner.

"It's a poor way to run a warranty program," he said. "The homeowner needs to have prior knowledge of the Ontario building code, how is one to know these things?"

Paying people out

CPBH's Somerville has found it's often an uphill battle to get warranty coverage — even when Tarion agrees there's a problem. If the claim is accepted but the builder can't or won't fix the home, most of the time Tarion offers compensation based on a retail quote submitted by the homeowners. In some exceptional cases, Tarion will help the homeowner obtain a qualified project manager or tradespeople, a Tarion spokesperson said.

REAL ESTATE

[Tarion facing 'largest claim event' in its history as builders walk away from projects — and home buyers lose deposits](#)

Tarion anticipates a payout of \$90 million to cover lost deposits due to builder failures.

CPBH's Somerville has found it's often an uphill battle to get warranty coverage — even when Tarion agrees there's a problem. If the claim is accepted but the builder can't or won't fix the home, most of the time Tarion offers compensation based on a retail quote. In most cases the homeowner then has to find someone to fix the problem, though

in exceptional cases Tarion will help the homeowner obtain a qualified project manager or tradespeople, a Tarion spokesperson said.

The maximum payout is \$400,000 but the cost to fix issues often exceeds the amount, Somerville added. In 2023, Tarion increased the warranty compensation limit based on recommendations from the provincial government and after public consultation, a spokesperson said. It had previously maxed out at \$300,000.

“Based on our research, the \$400,000 coverage is competitive when compared to what other comparable warranty programs provide. It is sufficient to cover the vast majority of actual repair costs that we have observed based on our historical claims experience,” Tarion said in a written statement.

But many homeowners don’t just want a cheque, said Somerville, they want their builder or Tarion to fix the home, adding, “the homeowners are then left to find qualified tradespeople and many can’t handle it. They didn’t buy a new-build home just to become a project manager.”

Often, homeowners will take the payout, even if they still need to pay out of pocket on top of the settlement, because escalating the case can create further headaches, advocates say. Homeowners can go through Tarion’s independent mediation process, but they say it is rife with problems. [A Star investigation in April reported on Tarion launching an internal review over concerns about a mediator’s past ties to the agency.](#)

Another avenue for homeowners is the Licence Appeal Tribunal, a provincial forum created to hear appeals of licensing decisions in government regulated industries, but the legal fees can rack up substantially. Although, Balasubramanian emphasized it’s a fair process that homeowners should take advantage of.

McInnes said he and his wife decided to take the maximum payout, as they heard “nightmare” stories of people going through mediation or the appeal tribunal, but still ended up paying \$150,000 out of pocket.

“We reached the top of what we could get and took it because we were either going to kill each other or kill someone else,” he said. “You just get frustrated and need to find a way out.”