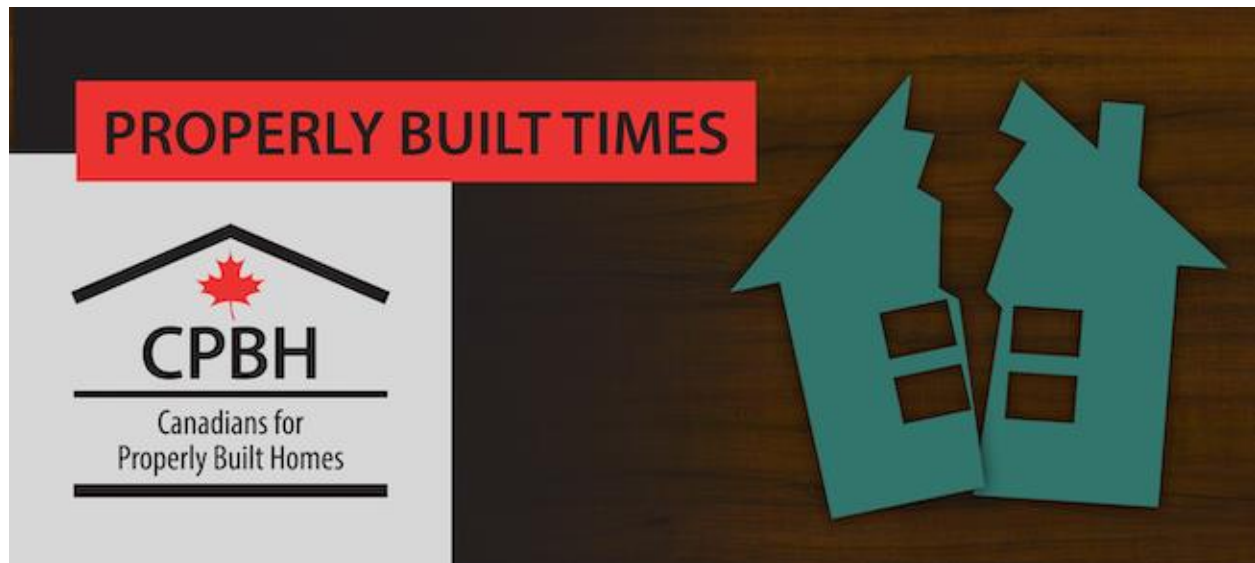


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Please donate to our spring funding campaign! We need your help to continue the fight for homes built at least to code, a fair home construction and warranty regime and a dispute resolution mechanism that works for

consumers, not just builders and Ontario's mandatory monopoly warranty backstop, Tarion.

When you donate, YOU will be helping the next homeowner in distress who contacts us. YOU will be keeping our voice strong.

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Do you think this article would have happened without CPBH?

Since this story appeared on the front page of the Toronto Star's* business section on May 25, CPBH has been flooded with calls and messages about the coverage as well as people telling their stories and asking for help. We received many supportive messages for our work from a range of sources including other not for profits, the legal sector, industry, government, consumer protection advocates, owners of newly built homes, not only from within Ontario, but in different parts of Canada as well.

We are grateful that the Toronto Star took on the examination of Tarion's claim of having reformed

itself and of homeowners' reaction to that claim, who have been on the receiving end of that reform. The disconnect between the two could not be clearer.

We extend our sincere thanks to Business Reporter Clarrie Feinstein for her work and to the homeowners who spoke with her. We know that many more owners of newly built homes have additional stories to tell and hope that the Star will go through with a follow up article. You are welcome to look for yourselves at our X/Twitter, LinkedIn and Facebook feeds for some of the comments posted.

Some highlights of our review of the article and consumer comments received are included here. First, a homeowner's experience covered in the story:

"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."

"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."

Another homeowner's story is told:

"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..."

"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."

"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?"

"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."

Here is how Tarion's CEO characterizes his organization:

"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."

Mr. Balasubramanian goes on to say, *"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."* **If that is so, why would Tarion:**

1. Continue to block CPBH, other consumer advocates and some consumers on some social media platforms such as X/Twitter?
2. Not respond to many questions/ issues raised by CPBH and others since Mr. Balasubramanian became CEO in 2020?
3. Not properly address the official complaint, submitted by CPBH via Tarion's own complaint process, on 24/05/23, concerning outstanding communications?
4. Further to failing to address the complaint, why has it now barred CPBH and others from using its complaint process?
5. Announce, on the first business day after the appearance of the Toronto Star article, its Annual Public Meeting is reduced to one hour from the previous 1.5 hours? Previous meetings were already much too short to hear out the large number of consumers who wanted to speak. An organization "open to criticism and tackling ... challenges..." would want to increase the meeting time, not reduce it. Given Tarion's penchant for lengthy self-congratulatory speeches at these meetings, the public will find little time to voice concerns at this event. Is the intent to discourage attendance?
6. Continue to use the claim that in its survey, "...85 percent of respondents who made claims had a positive experience with Tarion...", without clarifying that this survey only includes year one warranty holders and that the criteria for arriving at this score

are extremely weak? Responses to homeowners in years 2 to 7 of the warranty coverage, based on criteria that get at the problems, would reveal a different result.

7. Continue to avoid answering questions about why they often force homeowners to accept cash settlements/project management fees and what criteria are used to determine this. Many homeowners do not want to become the project managers for their home repairs nor do they feel qualified to hire such people.
8. Continue to neglect to implement all of the Auditor General's recommendations?
9. Choose this moment to promote itself on LinkedIn as a top employer with mental health services?

The Toronto Star article shows that Tarion has not reformed in ways that benefit consumers, and is far from reaching its stated vision of "Peace of Mind" and values of "service oriented, caring". CPBH and others have long held that Tarion is beyond repair and must be replaced with a multi-warranty regime as in other provinces. No system is perfect, but monopolies are by far the worst for consumers. This one, handed to builders by the Bill Davis government in 1976, has to end.

Please take a moment to make a donation to CPBH today. Help us keep the doors open so we can continue to produce results like this, help homeowners in trouble and work toward a better home construction/warranty regime for Ontario. We all deserve better.

We are thankful for your confidence in us and grateful for your support,

Karen Somerville and Alan Greenberg

Canadians for Properly Built Homes Co-founders

*#EnforceTheCode #EndTarionMonopolyNOW #ConsumerProtection #HealthAndSafety
#NeverGiveUp #NoUSEDfurnaces #RadonAction #Don'tStopBelievin'
#YouAreNotAlone #MentalHealth*

*The Toronto Star is the largest daily newspaper in Canada. <https://nmc-mic.ca/about-newspapers/faq/#:~:text=The%20largest%20daily%20newspaper%20in,community%20newspaper%20titles%20in%20Canada> .
<https://www.thestar.com>

The article is available at: https://www.thestar.com/real-estate/her-new-home-had-a-warranty-but-five-years-in-shes-still-battling-for-help/article_74d2a498-0d69-11ef-a9da-472825da38d1.html . If you do not have a subscription, articles are available at your local library.



Tarion releases its 2023 Annual Report

Tarion has finally released its 2023 Annual Report. Here's the link:
<https://www.tarion.com/sites/default/files/Tarion-Annual%20Report%202023.pdf>

CPBH will provide some comments here concerning Tarion's much touted "Annual Homeowner Surveys" particularly given Tarion's claims to the Toronto Star that it has "reformed".

Highlights related to first-year homeowners, i.e., those still in the honeymoon phase:

- Tarion continued to use the same weak criteria/measures in 2023 as it did in 2022 to calculate its "homeowner service orientation". **All three of these measures are lower in 2023 compared to 2022.**
- 80.7% said "Tarion is easy to do business with", a decline from 84.2% in 2022.
- 78.1% said "Tarion listens to the needs and concerns of homeowners", a decline from 82.5% in 2022.
- 87.2% said "Tarion is accessible to homeowners, a decline from 89.7% in 2022.
- These three measures formed the basis of what is referred to as the "Homeowner Service Orientation Index". In 2023, this "key performance measure" resulted in a composite score of 82 – a decline from 85.5 in 2022.

Highlights related to homeowners in Years 2 to 7:

- **There are five measures for 2023, and all are lower than 2022.**
- 81% said Tarion "is accessible" in 2023, reduced from 86% in 2022.
- 72% said Tarion "helps new homeowners understand their warranty rights and obligations" in 2023, reduced from 79% in 2022.
- 70% said Tarion "listens to needs and concerns", reduced from 76% in 2022.
- 70% said Tarion "is easy to do business with", reduced from 77% in 2022.
- 65% said Tarion "makes sure new home builders fulfill their warranty obligations", reduced from 73% in 2022. Note: This is the most meaningful indicator of all.
- Again, given that the Auditor General of Ontario says that Tarion has completed the vast majority of the recommendations from 2019, why have these scores not improved significantly in 2023? The results for these questions in 2023 are all either the same or worse than 2019.

Summary comments/questions:

- These results for Tarion's own customer survey are all bad news for Tarion as it tries to convince people that it has been "reformed" (e.g., in the May 25, 2024 Toronto Star).
- Can you imagine the results if all of the questions asked were all of significance to homeowners, e.g., Did Tarion compensate homeowners fairly for claims that it accepted?
- An analysis of claims rejected, with numbers and reasons for rejection, should be included in the annual report.
- Recently, the Minister responsible for consumer protection and Tarion, Minister McCarthy, praised Tarion's performance. Why, given these survey results?
- Minister McCarthy's Ministry (Public and Business Service Delivery) forces Tarion to pay for "oversight". In 2023, this ministry received \$639,000 for overseeing Tarion. That's \$639K that will not be used to fix code violations.
- Tarion dedicated only two pages in its 2023 Annual Report to its survey results, and almost a full page to five "homeowner compliments".
- In the 2023 Annual Report, in his "Message", the Tarion CEO, Peter Balasubramanian said "...our annual customer satisfaction survey ...resulted in a score of 82%, indicating that even in a challenging year, overall customer satisfaction with Tarion

remained positive..". Again, this is the composite score for only first year homeowners (those still in the honeymoon phase).

- The reasons for Tarion's "challenging year" given in the CEO and Board Chair's Annual Report messages were:
 - o Fall in housing starts: This resulted in 19,031 less consumers buying new homes and registering with Tarion compared with 2022. Less work for Tarion, not really their problem.
 - o Interest rates: These were the challenges of consumers and builders, not Tarion. If a house is not properly built, then the builder must fix it and if not, Tarion must fix it, regardless of interest rates. Tarion's financial reserves are staggering, so that's not a problem.
 - o State View Homes going into receivership, leaving 900 buyers looking for refunds of their deposits from Tarion: Refunding deposits does not require inspections, estimates, trades or materials. Compared with fixing deficiencies, it is an administrative exercise. Tarion does not lack the funds and it appears that given the problems in the housing market, Tarion's staff that are focused on warranty issues may have been under worked.
 - o **The "challenges" with these circumstances for Tarion are not obvious.**

- There needs to be serious questions asked of Tarion's Management and Board regarding this survey and its survey results for 2023, e.g.,:
 - o Why did Tarion's 2023 performance deteriorate, and what is being done to address this?
 - o Why is there no composite measure for homeowners in years 2-7?
 - o Why does the Tarion CEO only focus on first-year homeowners when he refers to this survey?
 - o Given how relatively weak these measures are, why aren't these scores much closer to 100%?
 - o Why aren't questions of most importance to consumers asked in this survey?
 - o How can the Tarion tell the Toronto Star (May 25, 2024 article), that it has been "reformed", given these survey results?
 - o Given that the Auditor General of Ontario says that Tarion has completed the vast majority of the recommendations from 2019, why has the composite score for first-year home buyers only increased by 1.5% in four years (2023 82% compared to 80.5% in 2019)?



Ontario Liberal Critic for the Attorney General, MPP Lucille Collard about the LAT: 👍

Attorney General Douglas Downey: 👎

Our sincere thanks to MPP Lucille Collard who asked excellent questions of the Attorney General in the Legislature on June 6 about the ongoing problems with the Licence Appeal

Tribunal (LAT) for homeowners fighting Tarion decisions. Here's the exchange as recorded in Hansard:

Mme Lucille Collard: Many Ontarians have lost trust in the ability of the Licence Appeal Tribunal to fairly adjudicate homeowner warranty disputes with Tarion. Homeowners' success rate at the LAT is very low, with Canadians for Properly Built Homes reporting that homeowners have lost around 84% of appeals since 2006. In recent years, the number of appeals made by homeowners has dropped dramatically, with 208 issues appealed in 2006 and only four in 2023.

Mr. Speaker, these numbers suggest that homeowners no longer trust the LAT to fairly adjudicate their appeals of Tarion Warranty decisions, and I need to ask the Attorney General, will he commit to reviewing the effectiveness of the LAT in handling homeowner appeals of Tarion warranty decisions?

Hon. Doug Downey: I'm pleased to have the chance to talk about the LAT, because it was one of the first tribunals that we brought back into the balance, hitting all of their marks in terms of filing the hearing dates. The LAT was a tremendous success—and under the leadership of Sara Mintz, who did a phenomenal job getting the LAT back on track so that it was so effective that sometimes the lawyers were saying, "You're moving too fast." But, in fact, we have moved fast. We have come back to balance, and I'm quite proud of the work that the LAT is doing.

Mme Lucille Collard: There's clear evidence that the LAT lacks the ability to be an impartial arbiter of disputes between homeowners and Tarion. CPBH has identified that the adjudicators who are hearing appeals to the LAT often do not have the expertise in new home construction required to effectively adjudicate these cases and that the criteria they are using to evaluate the cases are often Tarion's own construction performance guidelines. Additionally, the LAT has not had Tarion's guidelines independently reviewed by a third party to assess their appropriateness.

With only four appeals by homeowners to the LAT in 2023, homeowners are clearly choosing not to go to the tribunal anymore, and something is obviously wrong.

Will the Attorney General commit to implementing a third-party review of Tarion's construction performance guidelines and to ensuring that the adjudicators hearing these appeals have the training and expertise required to make informed decisions?

Hon. Doug Downey: We'll start with the Licence Appeal Tribunal and the fact that it's an independent tribunal. It's part of Tribunals Ontario, and the excellent work they're doing under the leadership of Sean Weir.

There's continuous training. There's training when the adjudicators are onboarded. There's rigorous review of those that are appointed to the tribunal. So I can commit to continued training and excellence and that there is continuous review, but they are an independent unit. So I don't plan to meddle in the independence of the tribunals, but I do look forward to their continued improvement.

Hansard: https://www.ola.org/en/legislative-business/house-documents/parliament-43/session-1/2024-06-06/hansard#P611_124453

From the Attorney General, no answers to the questions.

CPBH has been tracking LAT decisions since 2006 and has found that homeowners are unsuccessful 84% of the time, a statistically impossible outcome. The Attorney General has the ability to investigate and set right the performance of the LAT but chooses not to do so. He demonstrates his utter disregard for the plight of the owners of newly built homes, first taken advantage by builders who fail to build their homes to code and second by Tarion, Ontario's mandatory monopoly which is supposed to backstop builders' warranties when they fail to fix deficiencies and code violations. CPBH's most recent report on the performance of the LAT is here: <https://canadiansforproperlybuilt homes.com/wp-content/uploads/2024/04/2023-LAT-Report-Final-April-7-2024.pdf> .

This exchange clearly sets out the blatant disregard of the Ford government for the hard-working people of Ontario who put their life's savings into a newly built home. They don't want to help them, they just want them to go away.

And with that, Ontario's elected officials have taken the summer off to focus on beer, so they will not have to hear the concerns of citizens until October 21.



MMAH Official: "Has anyone died?"

What kind of question is that?

MMAH is the acronym for Ministry of Municipal Affairs and Housing. Its minister is Paul Calandra.

CPBH made a submission on May 14, 2024 concerning Ontario's Bill 185, the ***Cutting Red Tape to Build More Homes Act, 2024***, explaining why it is imperative for newly built homes to have quality built into them, at least to the minimal standards of the Ontario Building Code. Quantity of homes built must be balanced with quality and this is not reflected in Bill 185.

CPBH had made a presentation to Ontario's Standing Committee on Finance and Economic Affairs in Cornwall, on January 25, 2024, where the same point was raised. There, Cornwall's Mayor Justin Towndale, advised the Committee that Ontario municipalities "across the board" are having trouble enforcing the Code during construction. Mayor Towndale's words are in the official record available to all in Hansard.

After that assertion, CPBH wrote to Minister Calandra about this serious situation, explaining the impacts of improperly built homes on those who live in them, including the risks to health and safety as well as the years-long battles this situation drags homeowners into. (See linked document on our website for copies of the correspondence and inadequate response.) These are battles that homeowners are often ill equipped to fight. In the meantime, the occupants are living in unsafe homes with building code violations.

CPBH has provided recommendations to MMAH over the years, but none have been implemented: In one meeting, an MMAH official asked CPBH: "Has anyone died?"

Sadly, the answer to that question is yes. See our website under [In Memoriam](#).

Is that MMAH's criteria?

Ontario's citizens buying high priced, newly built homes deserve properly built, code compliant homes. Not years-long battles. And not caskets.

For CPBH's submission and related correspondence, see <https://canadiansforproperlybuilt homes.com/wp-content/uploads/2024/05/May-14-2024-Final-Ontario-Cutting-Red-Tape-to-Build-More-Homes-Act-2024-Bill-185.pdf> .



About CPBH

Canadians for Properly Built Homes (CPBH) is an independent, 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). Follow us:



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