

This submission relates to the discussion paper issued by
ON Ministry of Public and Business Service Delivery
Regarding
Cooling-off period, termination disclosure
And Informing and protecting buyers of new homes

Sept. 16, 2024

Please submit questions/comments and request for additional information to:
info@canadiansforproperlybulthomes.com .

Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, independent, not for profit corporation consumer advocacy organization 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).

When CPBH refers to "homes" it refers to all types, such as single family, semi-detached, townhomes condos and modular homes.

Website: www.canadiansforproperlybulthomes.com

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Background:

Canadians for Properly Built Homes (CPBH) welcomes the opportunity to contribute to this discussion. CPBH has been raising concerns about the lack of adequate consumer protection for newly built homes for more than 20 years, and this continues to be a very serious issue in many parts of Ontario. There are good builders, but there are also poor and marginal builders. Unacceptably, Ontario's purchasers of newly built homes still do not have an objective, reliable means of knowing who the good builders are given the ongoing misleading Ontario Builder Directory.

CPBH overall response to the discussion paper:

Much more – above and beyond what is in this consultation paper – needs to be done by your Ministry – Public and Business Service Delivery (PBSD) to adequately protect Ontario's purchasers of newly built homes. This includes:

- Addressing the ongoing serious shortcomings with Tarion and HCRA. The Delegated Administrative Authority model is inadequate for consumer protection.

and

- Stopping builders from secretly selling newly built homes with used/damaged furnaces given that this contravenes Ontario's Consumer Protection Act. Your Ministry must enforce what is already in that Act.

In addition, during your Sept. 10, 2024 consultation, our President, Dr. Karen Somerville, specifically highlighted the need for your Ministry to also address modular homes. But the PBSD Ministry person who led that session, Matthew Haley, Senior Policy Advisor (Acting) seemed to discount that point. CPBH continues to urge the Ministry to also include modular housing, given the emphasis by all levels of government in Canada on modular housing, and the problems currently being experienced.

Some of the topics included in this consultation are beyond the scope of CPBH's mission and vision, and are therefore not included in this response.

CPBH response to specific points in this discussion paper:

1. Cooling-off period for buyers of new freehold homes.

Yes, this is needed. One of the key reasons is to allow purchasers more time to get a private home inspection conducted before they take possession of the home given that serious problems with municipal inspections continue. As one example, in January 2024, the Mayor of Cornwall, Justin Towndale, advised the Standing Committee on Finance and Economic Affairs for Pre-Budget Consultations that his municipality faces issues relating to inspections during construction, and that this is not only in relation to his municipality, but Ontario municipalities “across the board”. As another example relating to problems with municipal inspections, please refer to the 2023 audit of the City of Toronto’s building inspection function. Here is a link to CPBH’s two-page statement related to that audit report:

<https://canadiansforproperlybulthomes.com/wp-content/uploads/2023/03/Mar.-15-2023-CPBH-statement-related-to-the-Audit-of-Toronto-Buildings-Inspection-Function.pdf> .

We have written to Minister Calandra regarding municipal inspection issues, but his response did not address the issues raised by CPBH.

Note: On April 13, 2017, Bill 59, the Putting Consumers First Act: Home Inspections, received Royal Assent, but it was never enacted. Legislation is still urgently required related to private home inspections. Please address this long outstanding matter.

2. Disclosure of terminated purchase agreements for new freehold homes

Yes, this needs to be reported in the Ontario Builder Directory.

As noted above, the Ontario Builder Directory continues to be misleading for many builders, e.g., one of the biggest issues today is the growing list of “chargeability exceptions” (loopholes) that Tarion has created. There are now nine exception loopholes, e.g., denied access, although many homeowners continue to advise that they did not deny access.

But it’s not just Tarion and HCRA at fault here – how your Ministry has described the Builder Directory in the glossary of this consultation document is clearly inadequate and very concerning:

“Ontario Builder Directory - An online directory on the HCRA’s website that provides information such as a builder’s licensing status, the number of years a builder has been active, the number of homes they have built, and conduct concerns including any charges and/or convictions against the builder” (page 11).

It’s important for the Ministry to remember what Justice Cunningham said in 2016 in his final report related to the Tarion Review:

Respectfully submitted by Canadians for Properly Built Homes - Input re PBSO consultation:
Cooling-off period, termination disclosure and informing/protecting buyers of new homes

“Regarding claims related data, it would be helpful to list information by type of defect (1, 2 or 7-year claim) at a minimum, with water penetration defects separately reported” (page 12).

What Justice Cunningham outlined in the above quote is the minimum needed. If these defects were reported in the Ontario Builder Directory, this would be instrumental in helping to reflect the **quality of the home built by the builder** – instead of all of the loopholes currently allowed that camouflage the quality of the home delivered in the first place.

Page | 4

In 2013, the Toronto Star published a report related to an investigation conducted by investigative journalist Kenyon Wallace concerning the Ontario Builder Directory. Here is an excerpt:

“...A Star investigation published Saturday revealed that Tarion Warranty Corp. is keeping secret records of deficiencies in new homes. “Consumers should have easy access to information about a builder’s record to help them make informed buying decisions,” Consumer Services Minister Tracy MacCharles said in response to the Star’s findings. “One of the cornerstones of consumer protection is information and transparency.” The minister maintained that the warranty program to which buyers of new homes in Ontario are entitled is “not broken,” but said she would work with Tarion “to ensure they continue to improve transparency and accessibility of builders’ performance history.” The minister did not say what her work with Tarion would entail...” (Toronto Star, July 8, 2013).

Sadly, many agree that the Ontario Builder Directory today is less transparent today than it was in 2013 when the Star conducted its investigation. Unacceptably those loopholes currently used by Tarion continue to result in Tarion keeping secret records of deficiencies in new homes, like the Toronto Star found in 2013.

3. Appendix A: Information sheet topics - #2 Size of the home

It was good to see the size of the home included. Consumers that have had a significant discrepancy with the size of the home delivered compared to what was advertised (e.g., 17% smaller) advised CPBH that Tarion simply told them that this is not covered by Tarion, and to consult a lawyer. Given that your Ministry gets paid to “oversee” Tarion, why is your ministry not ensuring that Tarion covers the size of the home, given that it backstops the builder’s warranty?

- 4. Additional information concerning protecting buyers of new homes in Ontario** – Here is a link to our Spring 2024 newsletter (Ontario edition) that provides additional information:
<https://canadiansforproperlybulthomes.com/wp-content/uploads/2024/06/Properly-Built-Times-Spring-2024-Ontario-Edition-Volume-19-no.-3.pdf>

Thank you for the opportunity to provide input.