

October 24, 2026

OPEN LETTER VIA EMAIL

Ms. Barbara Finlay
Acting Ombudsman of Ontario
Office of the Ombudsman of Ontario
483 Bay Street, 10th Floor, South Tower
Toronto, Ontario M5G 2K1

Dear Ms. Finlay:

Re: Request for an own-motion systemic investigation of the Licence Appeal Tribunal process for homeowners appealing Tarion decisions

On behalf of Canadians for Properly Built Homes (CPBH), I am submitting the enclosed report requesting that the Ontario Ombudsman consider an own-motion systemic investigation into the provincial process through which homeowners appeal Tarion decisions to the Licence Appeal Tribunal (LAT).

CPBH has monitored and analyzed LAT decisions involving Tarion for more than 20 years. Our twentieth annual report found that homeowners lost 85.4% of the warranty items decided by the LAT from 2006 through 2025. That figure alone does not establish that any decision was wrong or that the LAT is biased. Alongside recurring concerns about accessibility, fairness, transparency and expertise, however, it warrants independent examination.

These concerns are particularly significant because, for most people, a home is the largest financial commitment they will make. Homeowners who reach the LAT have already spent substantial time, money and emotional energy dealing with serious problems in a newly built home and navigating Tarion's warranty process. After an unsuccessful appeal at the LAT, many do not have the resources or stamina to begin another individual complaint process.

For that reason, CPBH respectfully asks that the enclosed report be considered as evidence supporting the possible exercise of the Ombudsman's own-motion authority under section 14(2) of the Ombudsman Act, rather than solely through an intake process designed for individual complainants.

CPBH is not asking the Ombudsman to re-decide individual warranty claims. We are asking for an independent examination of whether the system as a whole is being administered fairly, accountably and effectively.

We understand that the Ombudsman's Office has limited resources and must make difficult choices about systemic investigations. A systemic examination may, however, be a more efficient way to address recurring concerns than relying on a succession of individual complaints, particularly where the burden of the existing process may itself help explain why additional complaints are not made.

The report sets out eight proposed areas for examination. Appendix A documents statements, questions, and or concerns expressed by current and former MPPs from three political parties between 2015 and 2026 regarding Tarion-related cases before the LAT.

We respectfully request confirmation that this report and request have been placed before the Ombudsman for consideration. If the Ombudsman decides not to initiate a systemic investigation, we would appreciate confirmation that this represents the Ombudsman's decision concerning the exercise of the section 14(2) own-motion authority, together with the reasons for that decision.

Thank you for considering this request.

Sincerely,



Dr. Karen Somerville
President

Enclosure: Request for a Systemic Investigation of the Licence Appeal Tribunal Process for Homeowners Appealing Tarion Decisions

CC:

Premier D. Ford
Minister D. Downey
Minister S. Crawford
NDP Leader MPP M. Stiles
Acting Liberal Leader MPP J. Fraser
Green Party Leader MPP M. Schreiner
NDP Critic MPP S. Mamakwa
NDP Critic MPP T. Rakocvic
Liberal Critic MPP L. Collard
Liberal Critic MPP S. Blais
Tribunals ON Chair, S. Weir
Auditor General of ON S. Spence
Tribunal Watch Ontario

Request for a Systemic Investigation of the Licence Appeal Tribunal Process for Homeowners Appealing Tarion Decisions

**Submitted to the Acting Ombudsman of Ontario
Oct. 24, 2026**

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

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

Website: www.canadiansforproperlybulthomes.com

X/Twitter: @cpbh01

BlueSky: @cpbh01.bsky.social

Instagram: cpbh01

LinkedIn: <https://www.linkedin.com/company/canadians-for-properly-built-homes/?viewAsMember=true>

Facebook: <https://www.facebook.com/pages/Canadians-for-Properly-Built-Homes/1613240682226191>

1. Purpose of this report

Canadians for Properly Built Homes (CPBH) respectfully requests that the Ontario Ombudsman undertake an own-motion systemic investigation into the provincial process through which homeowners appeal Tarion decisions to the Licence Appeal Tribunal (LAT). The proposed investigation would examine whether the organizations responsible for this statutory appeal mechanism are taking adequate, coordinated and accountable steps to ensure that it is administratively fair, evidence-based, transparent, accessible and effective.

CPBH recognizes that the Ombudsman is not an appeal body and is not being asked to overturn LAT decisions or substitute the Ombudsman's opinion for that of an adjudicator. The request concerns the administration and operation of the appeal system as a whole.

2. Why systemic examination is warranted

CPBH has reviewed published LAT decisions involving Tarion since 2006. Its most recent report, A Brief Report Related to the Licence Appeal Tribunal and Tarion: 2006–2025, is its twentieth annual report.

In those published decisions, homeowners lost 85.4% of appealed warranty items from 2006 through 2025, with little, if any, improvement over time. The figure alone cannot establish bias or an incorrect decision. It does raise questions when considered alongside the small number of appeals reaching a published decision and recurring concerns about the process.

For most people, purchasing a home is the largest financial commitment of their lifetime. Serious defects can lead to major financial losses, prolonged uncertainty, disruption to family life and significant personal stress. Homeowners who pursue a LAT appeal have often already invested substantial time, money and effort in Tarion's warranty process. The fact that relatively few homeowners may subsequently pursue another complaint process should not be treated as evidence that systemic concerns do not exist.

The concerns have also been raised beyond CPBH. Former tribunal leadership, former senior public servants, Tribunal Watch Ontario and current and former MPPs have questioned aspects of the administration, accessibility, expertise, transparency or fairness of Ontario's adjudicative tribunal system and or Tarion-related appeals. Appendix A summarizes documented statements, questions, and or concerns expressed by current and former MPPs from three political parties between 2015 and 2026. These do not establish that particular LAT decisions were wrong, but they suggest that interest, questions and or concerns about this appeal process have persisted across political parties and legislative periods.

3. Ombudsman mandate and the basis for an own-motion review

Section 14(2) of the Ombudsman Act permits the Ombudsman to investigate a matter following a complaint by a person affected, a complaint referred by an MPP on behalf of a person affected, or on the Ombudsman's own motion. CPBH is not asking the Office to resolve an individual dispute on CPBH's behalf. It asks that this report and the evidence accumulated

through more than 20 years of monitoring be considered in determining whether an own-motion systemic investigation is warranted.

A systemic review is particularly appropriate where recurring issues may not be visible through individual complaints alone, where responsibilities are divided among several public organizations, and where affected homeowners may face practical, financial or personal barriers to pursuing yet another process after completing a LAT appeal.

4. Proposed scope of the systemic investigation

4.1 Compliance with the legislative mandate and accountability for the appeal system

The statutory and administrative responsibilities for Tarion appeals are divided. The Ministry of Public and Business Service Delivery and Procurement is responsible for policy and legislation related to new-home buyer protection, including the LAT's jurisdiction under the Ontario New Home Warranties Plan Act, while the LAT operates within Tribunals Ontario under the Ministry of the Attorney General. CPBH is concerned that this division may create an accountability gap: it is unclear which organization is responsible for assessing whether the appeal process, considered as a whole, is fair and effective, for example, given Minister Downey's response to MPP Kristyn Wong-Tam dated Oct. 7, 2024.

CPBH asks the Ombudsman to examine:

- the respective responsibilities of the two ministries, Tribunals Ontario and the LAT;
- whether there is an established process for identifying, escalating and resolving systemic problems arising from Tarion appeals;
- whether appeal outcomes, participation rates and barriers faced by homeowners are monitored by any organization within the Ontario government;
- how CPBH's annual reports and recommendations have been reviewed and addressed; and
- which organization is accountable for ensuring that the statutory appeal mechanism fulfills its intended purpose.

4.2 Administrative fairness and Tarion's Construction Performance Guidelines

CPBH has repeatedly asked whether Tarion's Construction Performance Guidelines have been independently assessed for their appropriateness in adjudicating appeals of Tarion decisions but has been unable to obtain a direct answer. Tarion develops and applies the guidelines when deciding warranty claims and may rely on them in defending those decisions before the LAT. Some LAT decisions refer to the guidelines even though adjudicators have acknowledged that they are not law. The systemic issue is whether adequate independent safeguards govern their development and use.

CPBH asks the Ombudsman to examine:

- whether the LAT, Tribunals Ontario, either responsible ministry or another provincial body has commissioned, obtained or considered an independent assessment of the appropriateness of these guidelines;

- the legal and evidentiary status assigned to the guidelines in LAT proceedings and the frequency with which they are relied upon;
- whether decisions clearly distinguish among the guidelines, statutory warranty requirements and the Ontario Building Code;
- whether homeowners have a realistic opportunity to challenge the guidelines without costly expert assistance; and
- what training and safeguards exist to ensure that materials developed by one party do not create an actual or perceived imbalance in the appeal process.

4.3 Administrative fairness for self-represented homeowners

CPBH's review indicates that the vast majority of homeowners in Tarion-related LAT decisions are self-represented, while Tarion is a repeat institutional party with legal counsel, technical resources, experienced staff and extensive familiarity with LAT proceedings. The question is whether the process is realistically accessible and administratively fair to an individual homeowner without legal representation.

"...A less litigious and adversarial process would also address concerns the ministry has heard from homeowners that they are dissuaded from pursuing LAT appeals because the existing processes are not transparent, and are complicated, time-consuming, costly and unbalanced..."

— Source: F. Denton, Assistant Deputy Minister of the Ministry of Government and Consumer Services, Oct. 7, 2014.

CPBH asks the Ombudsman to examine:

- the practical difficulties of self-representation;
- the impact of any changes made since Assistant Deputy Minister Denton's 2014 comments;
- whether homeowners receive clear information about what they must prove and about disclosure, witnesses, expert evidence and filing requirements;
- whether they have a reasonable opportunity to correct procedural errors and receive appropriate procedural assistance while adjudicators remain impartial;
- whether relevant evidence is excluded because homeowners do not understand LAT procedures;
- whether procedural rules and potential adverse costs are applied in a way that creates unnecessary barriers to legitimate appeals;
- whether hearing procedures appropriately accommodate disability, illness, financial hardship or other vulnerabilities; and
- whether adjudicators receive sufficient training in conducting hearings involving self-represented parties.

4.4 Evidence and adequacy of reasons

Tarion appeals can involve complex and conflicting evidence about construction defects, building-code requirements, construction standards and appropriate repair methods. A systemic review should assess whether the decision-making process consistently demonstrates that

material evidence has been considered and that the reasons explain how the result was reached.

CPBH asks the Ombudsman to examine:

- a representative sample of complete LAT files, not only published decisions;
- whether significant evidence conflicting with Tarion's position is addressed;
- whether adjudicators adequately explain why evidence is accepted, rejected or given limited weight;
- whether the burden and standard of proof are clearly identified and consistently applied;
- whether adjudicators distinguish among evidence, Tarion policies and legally binding requirements; and
- whether reasons are sufficiently clear for the parties and public to understand the result.

4.5 Adjudicator expertise and institutional support

New-home warranty disputes can require assessment of technically complex construction evidence. The issue is not whether every adjudicator must be an engineer, but whether the LAT has sufficient institutional safeguards and support to evaluate that evidence fairly and competently.

CPBH asks the Ombudsman to examine:

- the qualifications and selection criteria for adjudicators assigned to Tarion appeals;
- training concerning new-home construction, building science, the Ontario Building Code, statutory warranties and self-represented parties;
- whether technically complex cases are assigned to adjudicators with appropriate knowledge and experience;
- whether adjudicators have access to neutral technical assistance where necessary; and
- whether Tribunals Ontario has adequate quality-assurance processes for consistency and recurring issues.

4.6 Long-term results and the small number of appeals

Homeowners lost 85.4% of the warranty items decided by the LAT from 2006 through 2025. CPBH is also concerned by the relatively small number of homeowners who pursue an appeal through to a published decision. The combination warrants examination of what the data mean and what barriers may affect participation.

CPBH asks the Ombudsman to examine:

- whether the responsible organizations have analyzed long-term Tarion appeal results;
- how many appeals are filed, withdrawn, abandoned, settled or otherwise concluded without a published decision;
- why so few homeowners pursue an appeal through to a decision;
- whether cost, complexity, delay, stress, expectations of success or fear of adverse costs discourage appeals; and

- the experiences of homeowners who completed the process and those who considered an appeal but did not proceed, withdrew or settled.

4.7 Effectiveness and enforceability of remedies

An appeal process must provide a meaningful practical remedy when a homeowner succeeds. CPBH understands that the LAT does not enforce its own decisions. The systemic question is whether this limitation undermines the effectiveness and credibility of the appeal mechanism.

CPBH asks the Ombudsman to examine:

- who monitors compliance with LAT decisions;
- what occurs when a decision is not implemented promptly;
- what enforcement options are available to homeowners and whether those options are clearly explained;
- how often compliance problems arise and how long successful homeowners wait for compensation or repairs; and
- whether homeowners must begin further legal proceedings to secure compliance.

4.8 Transparency, public reporting and responsiveness

Meaningful public information about Tarion appeals is limited, requiring CPBH to conduct its own annual analysis of published decisions. Further, the LAT does not routinely post upcoming Tarion hearings, like some other Ontario courts/tribunals. Under an arrangement with CPBH, the LAT supplies the following week's hearing information on request, and CPBH volunteers post it on social media. Better public information is necessary to assess how the statutory appeal mechanism is performing and whether recurring problems are being addressed.

CPBH asks the Ombudsman to examine:

- annual numbers of Tarion appeals filed, withdrawn, abandoned, settled and decided;
- warranty items and outcomes, representation status, processing times, procedural dismissals and adjournments;
- reconsideration and judicial-review outcomes and implementation of LAT decisions;
- complaints about LAT procedures or adjudicator conduct and corrective action taken in response to recurring concerns;
- whether the LAT should publish upcoming hearing information directly; and
- whether the LAT, Tribunals Ontario and the responsible ministries respond clearly, directly and within a reasonable time to recurring questions and concerns.

5. Requested systemic investigation

CPBH respectfully asks the Ontario Ombudsman to investigate whether the Ministry of the Attorney General, Tribunals Ontario, the Licence Appeal Tribunal and the Ministry of Public and Business Service Delivery and Procurement are taking adequate, coordinated and accountable steps to ensure that the statutory process for appealing Tarion decisions complies with its

legislative mandate and is administratively fair, evidence-based, transparent, accessible and effective.

CPBH further asks the Ombudsman to consider recommendations concerning, but not limited to:

- clear allocation of responsibility and ongoing coordination between the responsible ministries and tribunal organizations;
- independent safeguards governing the use of Tarion's Construction Performance Guidelines;
- procedural protections for self-represented homeowners;
- adjudicator training and access to appropriate technical expertise;
- the consideration of evidence and adequacy of reasons;
- the collection and publication of meaningful performance information;
- the transparency, public reporting and responsiveness;
- the effectiveness and enforceability of remedies; and
- any legislative, policy or administrative changes required to provide homeowners with a fair and credible appeal process for the largest purchase most consumers make.

After more than 20 years of monitoring the results and repeatedly raising questions and concerns with the LAT and government officials, CPBH respectfully submits that these questions and concerns warrant independent systemic examination.

Appendix A - Ontario MPP Statements, Questions and Concerns Regarding Tarion and the Licence Appeal Tribunal (2015–2026)

This appendix records statements, questions, proposed amendments and third-party material presented by current and former Ontario MPPs from three political parties. Each entry identifies whether the quoted wording originated with the MPP, or another individual/organization. It was prepared with the assistance of artificial intelligence (AI). CPBH took steps to verify the accuracy of the information, including checking quotations, attributions and references against official legislative records and other available sources. CPBH acknowledges that, despite these efforts, errors or omissions may remain. Brief excerpts should be read in their full legislative context.

1. Sylvia Jones

Role at the time: Progressive Conservative MPP

Date: April 30 / September 28, 2015

Action and key points: Filed Written Question No. 378 seeking numbers and outcomes of Tarion-related LAT appeals. A subsequent legislative exchange discussed the ministry's response.

Supporting passage: "for matters that proceed to a hearing, statistics are not kept regarding dispositions"

Original source / attribution: Ministry written response to Written Question No. 378; quoted in the Legislature by Randy Hillier. Not Jones's own words.

Source and page: Hansard, October 26, 2015, printed pp. 5941–5942.

2. Randy Hillier

Role at the time: Progressive Conservative MPP and justice critic

Date: October 26, 2015

Action and key points: Raised concerns about LAT transcript handling, absence of disposition data and barriers to homeowners pursuing appeals.

Supporting passage: "homeowners ... are dissuaded from pursuing LAT appeals because the process is not transparent, is complicated, time-consuming, and unbalanced."

Original source / attribution: Hillier explicitly attributed this statement to Frank Denton, Assistant Deputy Minister, Ministry of Government and Consumer Services

Source and page: Hansard, October 26, 2015, printed pp. 5941–5942; see also October 20, 2015.

3. Jim McDonell

Role at the time: Progressive Conservative MPP and consumer-services critic

Date: November–December 2017

Action and key points: Advocated independent adjudication and highlighted the disadvantages faced by self-represented homeowners in LAT and court proceedings.

Supporting passage: “You cannot have a truly impartial warranty system without an independent adjudicator.”

Original source / attribution: Statement made by McDonell in legislative debate while discussing Justice Cunningham’s recommendations; not presented as a verbatim Cunningham quotation.

Source and page: Hansard, December 6, 2017, printed p. 6894 (confirmed); Standing Committee on Social Policy, November 27, 2017, p. SP-730.

4. Lisa Gretzky

Role at the time: Ontario NDP MPP

Date: November 20, 2017

Action and key points: Asked how an independent body reviewing Tarion claim denials should be constituted and how members should be appointed.

Supporting passage: “How would you see that particular independent body being made up?”

Original source / attribution: Question asked directly by Gretzky to Dr. Karen Somerville during CPBH’s committee presentation. The independent-body proposal was discussed in CPBH’s evidence.

Source and page: Standing Committee on Social Policy, November 20, 2017, printed p. SP-692.

5. Wayne Gates

Role at the time: Ontario NDP MPP

Date: November 27, 2017

Action and key points: Discussed the objective of a cheaper, quicker dispute-resolution process outside the courts.

Supporting passage: “If the goal is to ensure access to a cheaper and quicker dispute resolution process other than courts, then I think that’s good, but I’m not sure the motion quite works as written.”

Original source / attribution: Verified directly in the November 27, 2017 committee transcript as Wayne Gates’s own statement. Gates also said he was unsure whether the proposed amendment achieved that objective.

Source and page: Standing Committee on Social Policy, November 27, 2017, printed p. SP-730.

6. Lorne Coe

Role at the time: Progressive Conservative MPP

Date: November 27, 2017

Action and key points: Moved an amendment permitting claimants to initiate dispute resolution notwithstanding a right to a LAT hearing, with costs borne by the warranty authority.

Supporting passage: “The right to a hearing before the tribunal does not preclude a claimant from commencing a dispute resolution process...”

Original source / attribution: Text of the legislative amendment moved by Coe; not an independent personal observation.

Source and page: Standing Committee on Social Policy, November 27, 2017, printed p. SP-730.

7. Stephen Blais

Role at the time: Ontario Liberal MPP

Date: July 8, 2020

Action and key points: Criticized the imbalance between homeowners and Tarion, the expense of legal representation and the absence of construction-specific expertise among LAT members.

Supporting passage: “it’s a completely one-sided exercise that places average Ontarians against Bay Street lawyers.”

Original source / attribution: Statement made directly by Blais during legislative debate.

Source and page: Hansard, July 8, 2020, volume B; printed page number not confirmed.

8. Catherine Fife

Role at the time: Ontario NDP MPP

Date: July 13, 2020

Action and key points: Read a memorial concerning Earl Shuman’s longstanding advocacy and the access-to-justice challenges facing homeowners.

Supporting passage: “the abysmal access-to-justice problems faced by ordinary people trying to get their homes fixed”

Original source / attribution: Memorial written by consumer advocate Barbara Captijn on May 11, 2016, and presented by Fife; not Fife’s original wording.

Source and page: Hansard, July 13, 2020, printed p. 8593; see also July 8, 2020.

9. Lucille Collard

Role at the time: Ontario Liberal MPP and Attorney General critic

Date: June 6, 2024

Action and key points: Questioned impartiality, construction expertise and reliance on Tarion’s Construction Performance Guidelines; requested independent review.

Supporting passage: “Will the Attorney General commit to implementing a third-party review of Tarion’s construction performance guidelines”

Original source / attribution: Question asked directly by Collard, drawing on CPBH findings she referenced.

Source and page: Hansard, June 6, 2024, printed pp. 9639–9640.

10. Kristyn Wong-Tam

Role at the time: Ontario NDP MPP and Attorney General critic

Date: August 7, 2024

Action and key points: Raised concerns in correspondence with the Attorney General about the fairness of LAT proceedings.

Supporting passage: “the LAT’s reputation as a fair adjudicator is called into serious question”

Original source / attribution: The quotation is expressly attributed to Wong-Tam’s August 7, 2024 letter to Attorney General Doug Downey in CPBH’s April 1, 2025 report, p. 4.

Source and page: CPBH, A Brief Report Related to the Licence Appeal Tribunal (LAT) and Tarion: 2006–2024, printed p. 4.

11. Tom Rakocevic

Role at the time: Ontario NDP MPP and consumer-protection critic

Date: May 12, 2026

Action and key points: Presented CPBH’s findings and recommendations concerning Tarion-related LAT appeals, including replacing the appeal forum, adjudicator expertise, enforcement and independent guideline review.

Supporting passage: “the government of Ontario must immediately replace the LAT for these appeals”

Original source / attribution: Recommendation originating with CPBH and presented by Rakocevic to the Legislature; not necessarily an independently formulated recommendation of the MPP.

Source and page: Hansard, May 12, 2026, printed pp. 4551–4552 (pagination provisional).

Overall significance of the MPP records

The record spans Progressive Conservative, New Democratic and Liberal MPPs and extends from 2015 through 2026. The sources document recurring legislative statements, questions and or concerns about outcome information, access to dispute resolution, the position of self-represented homeowners, adjudicator construction expertise, Tarion-developed guidelines, enforcement and the independence of the appeal mechanism. This record does not establish that individual LAT decisions were wrong or itself prove maladministration. It provides documented context for the Ombudsman’s consideration of whether the statements, questions and or concerns warrant systemic examination.

We respectfully submit that these records should be considered in addition to any other questions, concerns and or complaints that your office has received about the LAT in relation to Tarion appeals, as well as the 20 annual reports prepared by CPBH since 2006, which were submitted to the LAT each year.