

2020 Annual Public Meeting Additional Questions & Answers

1. Why have Tarion’s Annual Public Meeting been virtual? Is everyone from the public invited including builders? Will there be a publicly posted recording?

Tarion’s decision to have an online-only Annual Public Meeting in the last few years was based on our desire to be accessible to all Ontarians. Prior to the COVID-19 outbreak, Tarion had committed to holding our Annual Public Meeting in-person in response to a recommendation from the Auditor General. However, the realities of COVID-19 meant that this was no longer possible for 2020. Assuming that it’s safe to do so next year, Tarion will be hosting an in-person Annual Public Meeting in 2021 and going forward. Tarion invites a range of stakeholders to the Annual Public Meeting including homeowners and registered builders. A recording of this and past Annual Public Meetings has been posted on Tarion’s YouTube channel. You can access it [here](#)

2. How can I provide feedback to Tarion’s public consultations?

For information related to Tarion’s current public consultations, including how you can participate, please visit the [Public Consultation section](#) on our website.

3. How will Tarion’s pre-possession inspections be conducted?

We have been piloting a risk-based inspection program that targets homes that have been identified as having the potential for issues. The inspections involve a Tarion representative visiting the construction site and flagging any problems that they might find to the builder to address. We are currently refining our program and, based on the results of our pilot, will be finalizing the process in November.

4. Where can I find information on Tarion’s Board of Directors and how can I contact them? Who are the consumer advocates on Tarion’s Board of Directors? What improvements have been made to the Tarion Board of Directors in response to criticism about a majority of builders on the board? Is Tarion’s Board of Directors Code of Conduct and Conflict of Interest publicly available?

Tarion currently has 12 members on its Board of Directors and their biographies are posted on our website [here](#).

To view the compensation framework for the Board of Directors, [click here](#). Any enquires to the Board of Directors may be submitted to the Corporate Secretary, Lesley Ross, at Lesley.Ross@tarion.com.

Tarion's Board is skills-based and composed of professionals who have extensive experience and expertise appropriate to Tarion's mandate and who understand and convey the interests of key stakeholders, including consumer advocates. [The Minister's Order regarding Competency Criteria](#) outlines the need for one or more members to have experience in dispute resolution and possess a positive orientation for consumer protection initiatives. Tarion currently has two Board members, RJ Falconi and Glen Padassery, who have the relevant backgrounds with consumer protection.

Tarion has taken measurable actions to strengthen governance and accountability as we work to build a more transparent, fair, and accountable new home warranty and protection program. We have revised the by-law to align with the [Minister's Order regarding the Maximum Percentage of Board Members](#) to ensure the majority of the Board is made-up of non-builders.

Tarion's Board of Directors policy on Code of Conduct and Conflict of Interest can be found [here](#)

5. Why does Tarion require homeowners to pay a conciliation fee?

The conciliation fee is more like a deposit and it is refunded when there is a warranted item found by a Tarion representative during a conciliation, or if the conciliation is cancelled usually meaning that the builder has addressed the issues. We have waived the conciliation fees for the remainder of the year due to the extended length of the COVID-19 outbreak and in recognition of the financial impact the outbreak has had on some homeowners. In addition, Tarion provides resources and assistance for homeowners who are unsure whether an item in their home might be covered by the warranty. The Construction Performance Guidelines are available on our website and contain information about many of the most commonly reported items. If still in doubt, homeowners can contact Tarion and discuss the matter with a representative prior to conciliation.

6. Does Tarion have plans to increase the quality standard on cosmetic issues?

Tarion refers to the Construction Performance Guidelines when determining whether a condition is covered by the warranty. The Guidelines were developed in collaboration with industry associations and experts as well as the general public. Tarion conducts an ongoing review of the Construction Performance Guidelines and welcomes feedback on how they can be improved. [Click here](#) for more information.

7. How are building plans of condominiums approved?

Building plans must be approved by the municipality before a building permit is issued. The municipality also performs a number of inspections throughout the construction process to ensure compliance with Ontario's Building Code.

8. Are there cases in which homeowners are compensated under the builder's warranty even though an item may meet the Ontario Building Code?

Yes. The first-year warranty covers Ontario Building Code violations but also requires that the home be constructed in a workmanlike manner and is free from defects in material. For more information on the guidelines for what may be covered under the warranty, you can check out Tarion's [Construction Performance Guidelines](#).

9. How will the new Rebuilding Consumer Confidence Act, 2020, help buyers that purchased new homes before the Act was passed?

Questions about the Rebuilding Consumer Confidence Act, 2020 should be directed to the Ministry of Government and Consumer Services at newhomes@ontario.ca.

10. What are the potential consequences for registered builders that fail to meet requirements under the new home warranty and protection program?

Potential consequences could include: taking customer service courses, targeted inspections on certain parts of construction of the house, limiting the number of houses a builder can build in a year, increasing the amount of security a builder has to post with us. The most severe would be issuing a Notice of Proposal to revoke the registration of a builder.

11. What are the rules for a builder to delay a closing date?

The Addendum attached to your purchase agreement sets out the rules that allow a builder to extend closing dates. If the delay goes on beyond what is permitted, then delay compensation may be payable from the date you were supposed to get the home until it is actually delivered to you based mostly upon a per day amount. If the delay goes beyond the Outside Closing date, it will trigger a 30-day period in which you as a purchaser can terminate the purchase agreement. Visit our [website](#) or contact us for more information about delayed closing compensation. You should also seek advice from the lawyer you have used in the purchase of the home.

If a new home is in the midst of construction at this time, it is very possible that the COVID-19 outbreak will cause delays in the delivery of the home. Under the unavoidable delay provisions of the Addendum, the builder will be entitled to unilaterally extend critical dates.. To learn more about COVID-19 and delayed closings, click [here](#).

12. What is the anticipated timing for the designation of the Home Construction Regulatory Authority and what is the relationship with Tarion? Will core competency requirements for registered builders change? In the interim, where should homeowners turn if they have concerns about their builder? What will be the oversight process, (i.e. Licence Appeals Tribunal)?

If a regulatory authority is designated under the New Home Construction Licensing Act, 2017, that regulatory authority would become the new regulator of new home builders and vendors, among other responsibilities, and Tarion would no longer provide this function. Questions about the potential designation of a regulatory authority, should be directed to the Ministry of Government and Consumer Services at newhomes@ontario.ca.

Until a new regulator for new homebuilders and vendors is designated and is operational, Tarion will continue to serve as the regulator for the new home building industry. If you would like to make a complaint about a registered builder's behaviour that you believe indicates a lack of honesty and/or integrity, please call 1-877-982-7466 or write to customerservice@tarion.com. A Customer Service Representative will work with you to gather all relevant information, including the builder's name, registration number (if available), a description of the behaviour you are concerned about, and any other information that may be relevant to the complaint.

The Licence Appeal Tribunal (LAT) is an independent agency established by the Ontario government that, among other things, resolves disputes related to Tarion. Under the Ontario New Home Warranties Plan Act, LAT currently hears appeals by builders whose registration has been refused or revoked; and has the power to change a Tarion warranty decision. If the New Home Construction Licensing Act, 2017 is proclaimed into force and a regulatory authority is designated under that Act, the LAT would continue in its role of hearing an appeal by a builder whose licence has been refused or revoked by the regulatory authority. No change is expected to LAT's ability to change a Tarion warranty decision.

13. How has the COVID-19 outbreak impacted the requirements of in-person Pre-Delivery Inspections?

It is reasonable that in-person PDIs can happen if participants adhere to provincial health and safety and physical distancing guidelines. It is Tarion's position that both parties need to agree to the conditions under which the PDI would be carried out.

In the event that one or both parties do not consent to an in-person PDI, we recommend that builders and homeowners/condo unit owners each conduct their own separate reviews of the home/condo unit. Builders should complete their own review of the home prior to turnover and document the condition of the home. The homeowner should conduct their own "delivery" inspection as soon as reasonably possible after taking possession and document as best they can (including photos and/or video) any missing/incomplete items or damages which they discover and believe were caused prior to when they took possession.

The records of the homeowner and builder can serve as evidence of the state of the home close to occupancy and may be helpful in the event a dispute arises later as to whether an item of damage was caused by the homeowner or builder.

The PDI form is not a Tarion claim form, so if an item is not noted on the PDI form this does not necessarily impact its warranty coverage. If a homeowner notes an item on their 30-day warranty form which is not on the PDI, the item noted will still form part of their warranty claim. The fact that it was not listed on the PDI may be relevant if it is an item of damage such as a chip in a countertop that may have occurred after possession. In this case, it will be helpful for the homeowner to show that they noted the damage as close to taking delivery of the home as possible as noted above, in the event that the claim is not remedied by the builder and the matter comes to Tarion for resolution.

14. Will the Tarion website be improved?

We are always looking into ways to improve the website experience for our customers. We conduct regular user surveys and act on the feedback we receive. If you have any suggestions and/or would like to bring a specific matter to our attention, feel free to let us know by filling out one of our surveys or by contacting us at socialmedia@Tarion.com.

15. As a homeowner, how can I identify warranted items in my home? Can homeowners request a full inspection by Tarion?

The best way to get an idea of whether a concern may be warranted is to refer to our [Construction Performance Guidelines](#). The purpose of the Construction Performance Guidelines is to provide advance guidance to homeowners and builders as to how Tarion will decide warranty disputes. The Guidelines are available in a variety of formats in the Resources section of our website – including the recently launched Home Explorer, which lets you navigate through a simulated home and learn about coverage on the most commonly reported items in each part of the home. Try it at cpg.tarion.com. We strongly recommend that homeowners refer to the *Homeowner Information Package* provided by your builder and available on Tarion's website as it outlines the warranties available as well as exclusions and limitations together with the Construction Performance Guidelines when they're filling out a warranty form and before a conciliation inspection.

Tarion does not conduct full home inspections of new homes; however, there are independent Home Inspectors who homeowners can contact to receive this service. Tarion can, however, help you determine if specific items of concern in your home are covered by the warranty. There are a number of assessment options available to you through Tarion, including virtual inspections, investigative inspections, and conciliation inspections. Contact us at 1-877-982-7466 or customerservice@tarion.com and we will be happy to discuss the appropriate one for your situation.

16. Why did the Auditor General of Ontario undertake a review of Tarion? Is the full Auditor General of Ontario Report on Tarion Warranty Corporation available?

The Strengthening Protection for Ontario Consumers Act, 2017 provided the Auditor General of Ontario with the ability to conduct an audit of Tarion other than an audit required under the Corporations Act, 2017. On October 30, 2019, the Auditor General released her Special Audit of the Tarion Warranty Corporation.

The complete Auditor General's report on Tarion is available on the Auditor General's website, <https://www.auditor.on.ca/>.

17. What exactly does it mean when Tarion says they backstop the warranty? Do they cover the complete warranty that we signed in our purchase agreement?

Almost every new home in Ontario comes with a mandatory statutory warranty from the builder. This warranty includes things like deposit protection, compensation for improper delays, and coverage against defects in work and materials. It is the builder's responsibility to provide this coverage to the owner. Tarion provides an added level of protection. Our mandate is to work with the builder first to have them address the warranted items. If a builder is then unwilling or unable to do so, Tarion may step in and resolve a warranty matter directly with an owner. If your purchase agreement includes warranties over and above the statutory warranties, those protections are as between you and your builder and are not backstopped by Tarion.

18. If we get a settlement from Tarion for a warranted item, do they provide a breakdown to the homeowner?

Yes. A homeowner will receive a settlement schedule that indicates the settlement amount and sets out the items covered.

19. What is the coverage for water or moisture in a basement?

Water penetration through the building envelope is covered for [two years](#).

20. Has the COVID-19 outbreak impacted the timelines and inspections under the builder's warranty?

During the COVID-19 outbreak and in response to the Government of Ontario's Emergency Order that suspends certain statutory limitation periods and timelines, Tarion temporarily suspended all warranty submission deadlines, including the 30-day deadlines identified by the Auditor General. The timelines for builder repair periods and requests for conciliation were also suspended during this period. Tarion has recently announced that timelines will be reinstated on August 27, 2020. For more information, please refer to the [Advisory on the Reinstatement of Timelines](#)

21. As I understand, a turnover from the builder to the board of the homeowners occurs when 51% of condominium units are transferred to their new owners. With the current percentage, there are many difficulties for those 51% of unit holders as a result of ongoing construction, traffic, noise, air quality, and general safety. Has Tarion considered increasing the value to a larger number, e.g., 75% or higher?

The regulations surrounding condominium turnover are not within Tarion's mandate. For further information or assistance, you may wish to refer to the Condominium Act, 1998 or contact the [Condominium Authority of Ontario](#) which is an organization that aims to improve condominium living by providing services and resources for condo owners, residents and directors

22. What is the average time it takes to resolve a dispute between a homeowner and builder in which Tarion intervenes?

The length of time it takes to resolve a dispute depends upon the issue.

23. How is Tarion improving disclosure on the Ontario Builder Directory? Why are there exceptions to claims being displayed on the Ontario Builder Directory?

Tarion has taken several steps to increase the transparency of the Ontario Builder Directory and expects to make more improvements this year.

In 2019, we made improvements to the Ontario Builder Directory including displaying past convictions for illegal building activities, as recommended by the Auditor General of Ontario, and adding disclosure about condominium cancellations.

We have committed to adding additional information as recommended by the Auditor General this year, in particular:

- The number and percentage of homes with major structural defects that a builder constructed each year;
- The amount of money a builder owes to Tarion that remains unpaid;
- The number of defects under warranty that a builder refused to repair; and
- The number of defects the builder refused to repair that were due to the builder's non-compliance with the Ontario Building Code.

If the New Home Construction Licensing Act, 2017 is proclaimed it is contemplated that the responsibility for Builder Directory disclosure will be assumed by a new regulatory authority.

The Ontario Builder Directory, among other things provides information about claims paid by Tarion when the builder/vendor has not resolved a homeowner claim that is covered under the warranties. A single home may have more than one claim and claims on the same home

may occur in different years. There are circumstances where Tarion has paid a claim or made a repair but it is not included in the Homes with Claims field. An example is where the builder/vendor was willing to resolve the claim but Tarion stepped in to resolve the claim on the builder/vendor's behalf, for example because there was a breakdown in the relationship between the builder and homeowner.

24. What is the process for setting and enforcing repair schedules with my builder and their trades?

Under the Customer Service Standard, your builder is expected to schedule repairs at a time that is mutually agreed upon in advance. If your builder or their trades continually miss scheduled appointments, please contact Tarion at 1-877-982-7466 or customerservice@tarion.com for further assistance.

25. How does Tarion determine that a builder is unwilling or unable?

Tarion may determine that a builder is unwilling or unable to repair or resolve claim items covered by the statutory warranty. Tarion's determination may be based on a number of factors, such as the builder's financial position, physical abilities, expressed intentions or whether the home was built or sold illegally.

26. What protections exist for purchasers of model homes?

Model homes are covered under the warranty and the warranty start date is the date the purchaser takes possession. Most Agreements of Purchase and Sale (APS) of model homes typically state that the homeowner is accepting the condition of certain parts of the home "as is" and usually lists the accepted condition (i.e., scratches on the hardwood flooring, dents in walls, etc). Any items listed in the APS under "as is" would not have warranty coverage.

27. What protections exist for deposits on pre-construction condominiums?

Under the Condominium Act, any deposit money received by the builder of the project must be held in trust. If a purchase agreement is terminated, the builder is obliged to return all deposits with accrued interest (if applicable) as well as any other payments made such as those for upgrades and extras.

In the unlikely event deposits and other amounts are not repaid by the builder then condo buyers are also eligible for deposit protection from Tarion of up to \$20,000 under the Ontario New Home Warranties Plan Act.

28. As the owner of a new build, are there any limitations on renovations or construction that would impact the warranty such as completing an unfinished basement? In short, is there a timeline during which we cannot perform any major renovations?

It is important to note that items and deficiencies caused by homeowner actions are not covered under the builder warranty, including:

- Alterations, deletions or additions to the home that were made by the homeowner
- Changes by the homeowner to the direction of the grading or the slope of the ground
- Defects in materials, design or work that was supplied or installed by the homeowner

We recommend that owners of new homes put off major renovations, such as finishing a basement, until after the first anniversary of the completion of the home. This gives the materials in your new home enough time to dry out and settle. It also makes things easier if your builder needs to address any warranted issues.

29. How does Tarion review builders for registration purposes (e.g., financial means)? What has Tarion done to address the Auditor General's comments on registration?

In response to the Auditor General of Ontario's report, there is now stronger oversight of builders by ensuring past performance is considered, requiring better evidence of financial means to complete projects, and investigating all reasons leading to the cancellation of projects. Further information on this is found in [Tarion's Implementation Plan](#)

30. What protections exist for homeowners when their builder does not have the financial means to address warranted items?

The new home warranty is provided to you by your builder and backed by Tarion. If a builder is unwilling or unable to complete warranty repairs on a home, Tarion will step in and help resolve warranted items directly with a homeowner.

31. What protections exist for homeowners regarding adjustment charges on the closing date?

The Addendum to your agreement of purchase and sale requires your vendor to list in a schedule the add-on charges and adjustable charges that affect the final proceeds due on closing.

32. As a homeowner, how can I obtain a copy of the blueprints of my home? Who is responsible to demarcate the property lines in order to put up a fence?

We recommend that you contact your municipal building/planning office for assistance on these types of municipal matters.

33. What measures are in place to address potential conflict-of-interest concerns between Tarion staff and builders?

Tarion strives for the highest ethical and professional standards in dispute resolution proceedings. To learn more about the guidelines that govern the actions of Tarion staff, [click here](#).

34. Are substitutions allowed?

If your purchase agreement gave you the right to select certain items of construction or finishing, such as colours and styles, these usually cannot be substituted without your written consent. In addition, if your purchase agreement states that your new home will include particular items (such as a certain model of sink or a specific brand of window) but does not give you the right to make a selection, then such items can only be substituted with items of equal or greater quality. If you think that an unauthorized substitution has occurred, homeowners should note it on the PDI Form, 30-Day, and/or Year-End Warranty Form, as unauthorized substitutions are covered under the one year warranty. For an example of how this works, [click here](#). If you are unsure about your rights regarding unauthorized substitutions, you may wish to seek the advice of a lawyer.

35. In response to the Auditor General's report, how has Tarion modified executive compensation?

We received the recommendation from the Auditor General of Ontario that our compensation policies needed to be reviewed and revised and we have done so. For example, we have made it clear that corporate financial indicators do not influence the performance incentive formula. We have also adjusted the bonus pay scales.

Based on a review of the recommendations from the Auditor General's Report, we have updated performance metrics to focus more directly on customer experience. Our new indicators better reflect our priorities of modernization, customer service, and consumer protection. Now executive compensation is tied to:

- Homeowner Satisfaction;
- Implementation of Auditor General of Ontario Recommendations;
- Implementing deliverables that support and enable the plan to create a new regulatory authority.

Additionally, a third-party expert reviewed comparable organizations including the public sector with respect to bonus pay methods. The 2020 corporate key performance indicators for Tarion can be found on our [website](#)

36. Are homeowners required to sign non-disclosure agreements?

Tarion does not require non-disclosure agreements from homeowners in order to resolve claims. Sometimes confidentiality can be part of a dispute resolution process, such as the Licence Appeal Tribunal practice of not publicizing the names of homeowners, the confidentiality around complaints made to an ombudsperson, and the confidentiality that typically applies to independent third-party mediations and other settlements in the context of litigation.

37. Why are builders involved in the Licence Appeal Tribunal process?

Whether or not a builder should be added as a party to a homeowner's appeal of a Tarion warranty decision is a matter that is decided by the Licence Appeal Tribunal. The tribunal is a specialized adjudicative body completely independent of Tarion. The tribunal has the discretion to add a builder as a party if the tribunal determines that the builder has a significant interest in the appeal. That determination is only made after hearing submissions from the homeowner, Tarion and the builder. When deciding whether to add the builder, the tribunal is mindful of procedural fairness and the impact adding the builder may have on the other parties.

38. Why are some people blocked on some of Tarion's social media platforms?

Tarion primarily uses its social media channels, including Twitter, to educate homeowners about the Ontario new home warranty and protection program and our resources. Our social media policy governs these channels and outlines the behaviours and conduct expected of those who use our service. People will be blocked only if they have acted contrary to the published terms of use. Our social media terms of use are public and found on all our social media channels; the policy is based on similar policies from government agencies and public institutions. Any information disseminated through Tarion's social media is also available through other channels including Tarion's website.

39. Why does Tarion provide customer service gestures in some instances?

Our team is committed to helping homeowners, and sometimes that can be in the form of a customer service gesture. An example of this is the Temporary Relocation Allowance. If Tarion has arranged for a repair or remediation of a warranted item and determines that the homeowner will incur expenses because the home cannot be occupied during the repair, the homeowner may be entitled to receive some additional assistance from Tarion in the form of a Temporary Relocation Allowance. This Allowance provides up to \$150 for each day that the home cannot be lived in, and Tarion does not require receipts or other proof of expenses. Note that Tarion is currently seeking input on increasing the compensation for homeowners that may have to relocate during repairs of warranted item as well as make it a requirement for builders to provide this compensation. Further information on this public consultation can be found [here](#)

40. Tarion’s 2018 financial statements reference a “government managed employee benefits plan”. What is this?

The “government managed employee benefits plan” in our 2018 Financial Statement note is a reference to the Canada Pension Plan (CPP).

41. Where can I find information on Tarion’s leadership team?

Information on Tarion’s leadership team can be found [here](#)

42. Are builders allowed to use furnaces of new homes during construction?

Furnaces must be commissioned by a heating contractor registered by the Technical Standards & Safety Authority in accordance with the manufacturer’s certified installation instructions. The practice of using furnaces during construction is being monitored by manufacturers to collect more information on this matter. The Canadian Standards Association (<https://www.scc.ca/en/contact-us>) is working with the manufacturers and builders to create common guidelines or standards, expected to be in place in 2021. Builders or vendors of a new home are expected to act with honesty and integrity. A homeowner can, at any time, ask Tarion to conduct an investigation into their builder’s or vendor’s performance and we encourage individuals who believe their furnace is damaged or malfunctioning to reach out to their builder or Tarion.

43. What is Tarion doing to improve training for staff?

A training program has been put in place for relevant Tarion staff to obtain the Ontario Building Code certification. All relevant staff who do not have their qualifications are currently taking the training and will seek certification. Warranty assessments dealing with Building Code violation claims will be reviewed by staff with the relevant qualifications or by external experts as needed.