

## **ADVISORY FOR HOMEOWNERS & BUILDERS: LABOUR DISPUTES INVOLVING POSSIBLE UNLAWFUL STRIKE ACTION**

Tarion is aware of an ongoing labour dispute involving bricklayers, stucco workers and certain unions which is impacting builders and may affect the completion of homes currently under construction.

The Ontario Labour Relations Board (OLRB), in a ruling from March 4, 2021, found that Local 183 threatened an unlawful strike and took actions that would lead bricklayers to engage in an unlawful strike. Subsequent action on construction sites in the GTA have resulted in disruptions which could potentially impact a builder's ability to deliver a finished home to purchasers.

The OLRB Chair in its decision among other things "declared that the Union has violated section 87(2) of the Act in that it sought to impose a penalty against builders..." and "... ordered that the Union cease and desist from threatening or committing acts the reasonable and probable consequence of which are that others will engage in an unlawful strike." The full OLRB decision can be found [here](#).

It is Tarion's understanding that the impacts of these disruptions may cause delays in one or both of (1) the completion of new homes; or (2) required repairs in connection with after sales service.

### ***Delays in Home Delivery***

Work stoppages may amount to a "strike", which may qualify as an unavoidable delay, however builders should speak with their legal counsel to determine if their circumstances would constitute a "strike". Builders should also consider if they need to invoke the unavoidable delay provisions of the Addendum (which forms part of the purchase agreement). Under those provisions the builder may be entitled to unilaterally extend critical dates if the labour dispute properly constitutes a "strike".

If a strike does exist it can only be used as grounds to extend critical dates if the strike affects the home such that delays occur. If a strike does exist then builders should gather evidence of the impact on the home, and ensure that if they do invoke the unavoidable delay provision, they are able to demonstrate to Tarion through proper documentation that there was an impact and the time period that it encompassed. Documentation should include, but is not limited to, construction logs, email correspondence with contractors, trade schedules, and photo evidence and any other written evidence of the strike and its impacts.

It is important that the events/circumstances relied upon to invoke the unavoidable delay provisions fit within the language of the addendum (for example constitute a "strike") and that the builder document the impact and the builder's reasoning. Builders should work with their lawyers and advisors to make sure they are clear a strike has occurred before taking any action.

In addition, the builder must follow the rules and procedures set out in the Addendum in order to engage the unavoidable delay provisions to extend dates due to a strike.

### ***Delays in Making Repairs***

If as a result of the labour disputes, additional time may be needed to complete warranty repairs. Builders must follow the process for requesting repair extensions under the provisions set out in Registrar Bulletins 01 and 02. This process is also outlined in the [Information Sheet for New Home Builders - Strikes - Extending Repair Periods](#)

### ***More Information***

Homeowners with concerns or questions regarding the potential impact on their homes are encouraged to contact their builder to discuss these potential impacts. Alternatively homeowners can contact Tarion's Customer Service team at 1-877-982-7466 or by emailing [customerservice@tarion.com](mailto:customerservice@tarion.com)

Builders with general inquiries can also direct them to Tarion's Customer Service team using the contact information noted above.

Specific questions about extensions under RB01 and RB02 should be directed to the following contacts:

#### Freehold and Condo Units

Trudy Napoleone  
Manager, Warranty Services  
1-877-982-7466, ext 3202  
[trudy.napoleone@tarion.com](mailto:trudy.napoleone@tarion.com)

#### Common Elements

Bonnie Douglas  
Manager, Warranty Services, Common Elements  
1-877-982-7466, ext. 3183  
[bonnie.douglas@tarion.com](mailto:bonnie.douglas@tarion.com)