

Tarion's goal in providing this document is to offer stakeholders a brief overview of the meeting and an additional source for information on Tarion's policies and procedures. This document is not a transcript, and does not present itself as such. It is a summary intended to provide a high level outline of the topics discussed during the meeting. It also clarifies answers that were not fully explained at the time. The Tarion Annual Public Meeting is not a forum to discuss individual files, and therefore, the summary of this meeting does not include any mention of these cases. Any editing that was done to questions was done so in an attempt to summarize lengthy questions and/or omit references to individual files.

2014 Tarion Annual Public Meeting – Meeting Summary

Tarion's 2014 Annual Public Meeting was held on Wednesday, April 30th, in North York. The purpose of this meeting is to provide Tarion's stakeholders with an update on the organization, and provide a forum for the public to directly interact with Tarion executives and employees.

The meeting began with a presentation by Christopher Spiteri, the Chair of Tarion's Board of Directors, who introduced the board members and discussed Tarion's various committees and public consultations in 2013. He also explained the change to Tarion's board structure, which was announced in 2014. Finally, Mr. Spiteri outlined Tarion's mandate.

Next, President & CEO Howard Bogach provided an update on Tarion's major projects and accomplishments in 2014, including:

- An update on the enhancements Tarion has made to its various systems and in order to provide better communications channels for its stakeholders.
- An outline of the regulatory change that allows for electronic delivery of the Homeowner Information Package.
- An overview of the new Ontario Builder Directory, which replaced the Licensed Builder Directory.
- A description of the different training programs Tarion conducted for staff and builders in 2013 in order to increase knowledge and enhance customer service.
- A breakdown of the claims processing in 2013.
- A review of builder licensing and registration.
- An update on illegal building initiatives conducted in 2013.
- A list of the 2014 Tarion Awards of Excellence recipients.

Next, Edmond Lee, Vice President and Chief Financial Officer, delivered a financial review, and New Home Buyer Ombudsperson Ian Darling identified complaint trends, policy matters and systemic issues, also making recommendations for improvement. More information on Mr. Darling's presentation is included in the Tarion Ombudsperson Office Annual Report available [here](#).

The formal presentations concluded with a preview of Tarion's plans for 2014 and beyond, delivered by Howard Bogach.

For more details on the information above, including a report on the organization's financial results, please read Tarion's 2013 Annual Report available [here](#).

Upon completion of the presentations, audience members had an opportunity to ask questions and interact directly with Tarion employees. Homeowners were asked to keep questions brief and to refrain from asking questions about individual files. Questions about personal situations were asked to be held until the conclusion of the meeting, when Tarion staff members were available to discuss files individually. The following is a summary of the questions and answers that arose during the meeting. Only questions that were general in nature are listed below. Personal comments are also not included in this summary.

Some of the answers include additional information that was not provided during the meeting, marked by an asterisk (*).

Question:

The homeowner asks a question about an individual case regarding a home deemed ineligible for warranty.

Answer:

Howard notes that he has answered this question for this homeowner numerous times.

Question:

Will Tarion ensure that purchasers receive what they originally requested in their Agreement of Purchase and Sale? Tarion's website states that if the builder substitutes without the purchaser's consent, the purchaser can demand the item be changed to what was originally selected, or make a cash settlement. You also state Tarion is required to backstop these warranty obligations. Does this mean that Tarion will ensure that purchasers are provided with what they selected? And if not, why will Tarion not backstop the obligation?

Answer:

Howard noted that the questions were derived from a matter that is currently in litigation and therefore he could not answer the question.

Note*: This question starts from the premise that Tarion enforces agreements of purchase and sale. That is too broad a proposition. Tarion provides certain warranties – for example, regarding construction defects in homes – and also provides protection against certain unauthorized substitutions. In very general terms, if an item is referred to in the new home purchase agreement, then the builder may only substitute another item of equal or better quality. If an item is something which is selected by the home buyer (e.g., selection of certain flooring or cabinetry), then the builder is not supposed to substitute something different without the home buyer's consent. If an unauthorized substitution occurs and it has an adverse impact upon the homeowner, then if practical and reasonable in the circumstances, the builder (or possibly Tarion, if the builder fails to do so) will replace the item with the referred to or selected item. However, even if the substitution is not properly authorized, if replacement is not possible, is impractical or unreasonable, then another measure of actual harm to the homeowner may apply and monetary compensation awarded instead.

More information on unauthorized substitutions can be found here: <http://www.tarion.com/Warranty-Protection/Pages/Unauthorized-Substitutions.aspx>

Question:

Does Tarion, their agents and/or their member builders condone or facilitate any illegal building practices, and under what circumstances would Tarion suggest illegal building practices that are contrary to the Ontario Building Code, the local building code and/or the Tarion Warranty Plan Act? (The homeowner describes an individual case relating to this question.)

Answer:

Municipal Building Officials have the right to override the Ontario Building Code in certain circumstances. If the Building Official is in agreement with process, then Tarion can also override the Code.

Question:

Can the public rely on information on your website?

Answer:

Yes.

Note*: We believe our website is an informative tool for home buyers who are looking for information on new home builders, home buying, and the new home warranty. Tarion continuously updates our website to provide home buyers and builders with current information about the warranty. We always strive to provide clear and accurate information to home buyers and home builders. However, by its nature a website provides general and summary information and cannot respond to all situations. In the vast majority of the information will address issues raised. However, it is not legal advice. With respect to decisions regarding specific rights and obligations, it may be necessary to seek legal or other professional advice because if there is any conflict or inconsistency between the ONHWP Act and the summary information on the website, the ONHWP Act will prevail.

Question:

The homeowner asks a personal question to Howard based on an individual case.

Answer:

Howard states it's an individual case and cannot respond to it. He offers the homeowner the option of discussing the case with a Tarion staff after the meeting.

Question:

Why is Tarion unwilling to hire inspectors to oversee builders, but is willing to hire lawyers to fight consumers?

Answer:

The Ontario New Home Warranty Act provides for Tarion to have inspectors. It's important to remember that Tarion inspectors are not building inspectors. That's the role of the municipality, under the Ontario Building Code Act. Where appropriate, Tarion can play an oversight role to ensure that builders are honouring their warranty obligations. But [Tarion inspectors] do not do building inspections. That's the role of the municipality.

Question:

We pay fees to Tarion which has a monopoly on home warranty. How do we know we are getting value for our money within Tarion?

Answer:

Howard noted he would take that question back to the Board, and that we have key performance indicators that address those issues.

Question:

How can Tarion serve consumers who pay the bills while controlled by the developers that it is supposed to regulate?

Answer:

It isn't controlled by developers.

Note*: Tarion is governed by a [Board of Directors](#) representing a wide spectrum of stakeholders who bring expertise from the perspective of new home buyers, the building industry and the provincial and municipal levels of government. In April 2014, Tarion introduced a new structure for the board of directors that reflects a more formal skills-based selection process as well as balanced stakeholder representation. This change will increase consumer representation and should give consumers additional confidence in the organization's decision making process.

Question:

Why should developers get a chance to fix something if they got it wrong the first time? Wouldn't a cash settlement be more efficient?

Answer:

The Act states that it is the builder's warranty. The builder has the first opportunity to fix the issue. If the issue isn't fixed, Tarion then has an opportunity to either cash settle the issue or conduct its own repair.

Question:

Tarion's guidelines to resolve 30-Day items is nine months. Are you following those guidelines and if not, why? What are you doing to rectify it?

Answer:

Tarion has the right to impose further timeframes if the file becomes more complicated along the way.

Question:

What percentage of people who submit a 30-Day Form are dealt with within nine months?

Answer:

This information was not provided at the meeting.

Note*: Tarion has looked into this query, and has verified that from 2011-2013, 99 per cent of all 30-Day Forms have been completed within nine months.

Question:

When new condo owners move in, they usually do so into an unfinished building, which sometimes takes more than one year to complete. Nothing is finished when people move in and it is unsafe. How can Tarion help these condo owners?

Answer:

We know the issue is being discussed in the new Condo Act. This isn't a Tarion issue. We deal with the warranty for defects. The coverage starts the day of possession but the Condo Act addresses when possession occurs, not Tarion's Act.

Question:

How many times do builders have the right to delay with no compensation to new homeowners?

Answer:

Tarion is the only province that provides delayed closing, providing coverage and notice throughout the process. Those are issues we've tried to address but in today's world with condos, we know they are taking longer to build. We are also seeing a very long extension by closing date. I'm happy to take up your issues with those involved in reviewing the Condo Act.

Question:

Tarion should protect homeowners since they pay the Tarion fee. (The attendee says that it is stated in the adjustment, and paid by the purchaser).

Answer:

Howard clarifies that it is the builder that pays the fee and can choose to pass on the fee to the homeowner, however, Tarion receives the fee from the builder.

Question:

Can the Tarion Board be made up of regular citizens?

Answer:

This year Tarion had an open nomination process and hired an executive search firm to look for [Board representatives]. The board is composed of eight people nominated by the Ontario Home Builders' Association, and eight people who come from the general public.

Note*: Tarion is governed by a balanced Board of Directors with members representing key stakeholders within the housing industry, consumer representatives, the financial community and provincial and municipal levels of government. All Board members are expected to make decisions based on the best interests of Tarion and all of its stakeholders.

The Board includes:

8 non-builders – people with knowledge of homebuyer/consumer issues and other relevant skills and experience

5 of those members have been selected by the Minister of Consumer Services

3 additional members are selected based on submissions from other sources

8 members with knowledge of the building industry

All appointees/nominees are assessed based on a competency-framework/skills matrix. This adds additional consumer representation, addresses skill requirements identified by the Board and balances

the scales for all stakeholders. Tarion's Board made the change to give consumers additional confidence in the organization's decision-making process.

Question:

A question was asked about an individual file.

Answer:

Howard suggests the homeowner speak to a specific Tarion employee after the meeting.

Question:

You have replaced the Licensed Builder Directory with a new builder directory, stating, "We have added more detailed information about builders in an effort to provide better disclosure for homeowners." I thought that you were required under the Tarion New Home Warranty Plan Act to provide full disclosure, not better disclosure. (A personal example was then provided by the homeowner regarding information in the Ontario Builder Directory based on a LAT decision).

Answer:

Tarion does not track or report what goes on in the Licence Appeal Tribunal.

Tarion has changed the major structural defect policy as of 2012. Items that were pre-2012 were the responsibility of Tarion. After that date they are the responsibility of the builder [the liability is shared by the builder and Tarion]. Based on this agreement, we cannot go back and hold builders accountable for charges that at the time, were the responsibility of Tarion. We are not going back to report what happened in the past, but we are going to report these issues going forward.

Question:

The homeowner restates that Tarion cannot provide partial disclosure, and owes homeowners full disclosure of all the defects that Tarion has inspected in homes.

Answer:

Howard states that he appreciates the homeowner's position and understands the point of view. He restates that we cannot hold people responsible for what happened in the past, we are going forward and reporting those issues.

Note*: For more information on the Ontario Builder Directory, refer to an article here:

<http://www.tarion.com/About-Tarion/News-and-Events/InTheNews/Pages/Helping-You-Choose-the-Right-Home-Builder.aspx>

Question:

The homeowner describes an individual file, and states a complaint has been filed about the Tarion process through the Ombudsman.

Answer:

Howard states that this is an individual file, and he offers to discuss it with her upon conclusion of the meeting.

Question:

What information does Tarion provide to homeowners about builders who have had claims brought against them?

Answer:

Howard requests more clarification in what "claims" means in the context of the question.

Note*: Homeowners can find a builder's record of chargeable conciliations in the Ontario Builder Directory, available here: <http://www.tarion.com/About-Tarion/News-and-Events/InTheNews/Pages/Helping-You-Choose-the-Right-Home-Builder.aspx>

Question:

How long would be proper for a 30-Day form to be resolved? (The homeowner comments that Tarion states that they establish minimum time standards for after-sales service).

Answer:

It depends [on the file]. Tarion has a right to abridge the time frame on complicated files.

Question:

Why doesn't Tarion have a Compliance Officer?

Answer:

We have looked into it and at this time, I haven't recommended we proceed with an independent Compliance Officer because we have an Ombudsman that deals with fairness issues and the Licence Appeal Tribunal (which is independent from Tarion) that deals with disputes. I'm not sure what the other party would bring to the table.

Question:

The homeowner comments on the accuracy of the information on the Tarion website, mentioning a quote from a Tarion employee on the reliability of the information in the Ontario Builder Directory.

Answer:

Howard states that the Ontario Builder Directory is not the only tool homeowners should rely on in choosing a homebuilder.

Note*: Tarion feels that the Ontario Builder Directory should not be used as the sole research method by homeowners when choosing a builder. Tarion publishes a great deal of information that we hope will be useful for consumers through the Ontario Builder Directory. It's important that whatever information we provide is clear, easy to understand, and fair to the individuals or businesses being described. We always recommend that prospective homebuyers check our website as one of a number of sources in making their home buying decisions.

Question:

The homeowner comments on the Licence Appeal Tribunal (LAT) process, adding that there is no positive conflict resolution process.

Answer:

At this point, the Chair of the Board discussed the fact that when there is a dispute, there is a process in place to resolve it. However, he was unable to complete his answer due to interruptions from homeowners.

Question:

The homeowner comments on Tarion hiring lawyers when entering a LAT proceeding.

Answer:

No answer was provided, however, the following paragraph includes more information on the Licence Appeal Tribunal that was not discussed in the meeting:

Note*: The Ontario Licence Appeal Tribunal (LAT) is an independent body created by the Ontario government to provide homeowners with an impartial appeals process. Tarion doesn't control LAT or set the rules for it. We work hard to find solutions to home owner issues long before they reach LAT, including early facilitation efforts and a mediation process that is required before a LAT case gets underway. For us, a successful outcome is when we resolve issues before they get to LAT. Out of the average 50,000 new home possessions each year in Ontario, about 20 cases go to a LAT hearing.

Question:

Does the cost of claims you report include costs you pay to outside legal firms?

Answer:

Those costs are not shown. Those legal costs are shown as Tarion costs.

Question:

What is in place for the homeowner to recoup these legal fees that are forced upon us by Tarion [when proceeding with LAT]?

Answer:

These costs are not forced on homeowners.

Question:

What is the average cost of a homeowner to go through a LAT process?

Answer:

The homeowner answers this question.

Question:

A question is asked based on a personal file.

Answer:

Howard offers to discuss this file with the homeowner after the meeting.

Question:

The homeowner describes an individual file and asks for Tarion's definition of a bad builder.

Answer:

There is no definition of a bad builder. What we show is the record, whether there has been a chargeable conciliation and whether there was money paid out on behalf of the builder. (We show) how long the builder was registered, if they are registered, if their licence has been refused and how long they've been in business.

Question:

How does Tarion hold builders accountable? For instance, there is a builder with problems, Tarion acknowledges the problem, can Tarion only ask that the builder comply, or can they order the builder to comply?

Answer:

It is the builder's warranty. So the builder has the opportunity to fix it. If the builder fails or refuses to fix it, Tarion takes on the responsibility. In order to move that forward, you would have to request a conciliation. If the builder doesn't fix it or refuses to fix it, Tarion will either have a contractor or cash settle with you to fix the problem.

Question:

What type of things could a builder do that would cause Tarion to not issue permits and remove their licence?

Answer:

To get licensed, a new builder must pass a technical test and an interview, and show financial capability and competency. In order for us to remove a licence, we must go to the Licence Appeal Tribunal and argue that the builder's licence should be revoked. Some of the factors that determine this would include a poor service record, intimidation, or fraud. The onus is on Tarion to prove the issue and the bar to prove it is relatively high. This is because we don't want to take away somebody's livelihood unless there is a solid case for it. We can also issue terms and conditions. These are dealt with in our Licence and Underwriting Department. This may include limiting the number of homes a builder can build in a year until they can show us they have improved. Another example would be mandating further education for that builder to undertake.

Question:

If, for instance, a builder is not paying their trades, there are major deficiencies over and over again, you would take steps like that?

Answer:

If there are major deficiencies over and over again, then yes. If there are issues, it could depend on the level of the issues with trades. Sometimes there can be levels of disputes between builders and trades and Tarion is not necessarily involved. But if it impacts the financial ability of the builder to perform than we would take these steps.

Question:

And these are things that should be reportable to Tarion?

Answer:

Yes.

Question:

The homeowner comments on an individual file and LAT proceeding.

Answer:

Howard does not answer the question as it was based on an individual file.

Question:

The homeowner directs this question to the Chair of the Board requesting that he make a commitment to homeowners to look at an alternative conflict resolution process for LAT.

Answer:

This question was noted by the Chair and will be taken back to the Board for further discussion.

Question:

Who on the Board are the consumer members and what qualifies them to be a consumer member? What backgrounds do they have in consumer protection and consumer advocacy?

Answer:

We will place the biographies of our board member on the website.

Note*: The biographies are available here:

<http://www.tarion.com/About-Tarion/Pages/Board-of-Directors.aspx>

Question:

The homeowner comments on a personal file.

Answer:

No answer was provided as this was a comment, not a question.

Question:

The homeowner notes that there is one builder on the board with a chargeable conciliation, and asks if he should assume this is not a good builder based on this record.

Answer:

It is possible for anyone to get a chargeable conciliation. Home buyers should look at the overall record of the builder.

Upon conclusion of the meeting, homeowners were given the opportunity to interact directly with Tarion staff members.

*This information was not provided during the meeting. It is meant to add further clarification.