

2013 Tarion Annual Public Meeting

Tarion's 2013 Annual Public Meeting was held on Thursday, April 25th 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 Harry Herskowitz, the Chair of Tarion's Board of Directors, who introduced the board members and discussed Tarion's various committees and public consultations in 2012.

Next, President & CEO Howard Bogach provided an update on Tarion's major projects and accomplishments in 2012, including:

- An outline of Tarion's three-year project to help the organization seamlessly handle increases or decreases in workflow without affecting its ability to deliver excellent service.
- A list of new ways Tarion is reaching out to stakeholders as part of its public education mandate.
- A description of changes to the warranty in 2012.
- An overview of the new Common Elements Construction Performance Guidelines and the Third Edition of the Construction Performance Guidelines.
- An introduction to the new Warranty Service Department, formed from the restructuring of the former Claims and Customer Service Departments, that aims to provide a more consistent point of contact for homebuyers.

Mr. Bogach also provided a general overview of Tarion's core services in 2012.

Andy Rodgers, Director, Marketing Communications, then summarized the results of the 2012 Homeowner Satisfaction Survey.

Edmond Lee, Vice President & 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 2013 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 2012 Annual Report available [here](#).

Upon completion of the presentations, audience members had an opportunity to ask questions and interact directly with Tarion employees. The following is a summary of the questions and answers that arose during the meeting:

Question:

If a condominium is not yet registered, and therefore the Condominium Board has not yet been formed, who do you go to if you have an issue with a common element?

Answer:

When the Condominium Corporation is turned over, the Condominium Board will hire an Engineer or Performance Auditor to do an analysis of all the common elements. At this time, unit holders will be asked how the common elements are impacting the units (for example, if windows are leaking). The Performance Auditor will then file a detailed report with Tarion. If items are not resolved within the appropriate timeframe, this would become a claim against the builder, and Tarion would get involved. This process is outlined in the Condominium Act.

Therefore, an issue with a common element will be dealt with in due time by the Condominium Board once the condominium becomes registered and a performance audit is performed.

For more information on the common elements warranty, [click here](#).

Question:

There was concern mentioned regarding Tarion's code of conduct and conflict of interest policy. Specifically, the homeowner felt there was a conflict of interest between the roles that Tarion was created to fulfill. The homeowner felt that the organization cannot protect new homeowners while also registering new builders and administering the Ontario New Home Warranties Plan Act. The homeowner also felt that the board should be all independent people who can vouch for homeowners.

The homeowner also added that Tarion does not accurately track homeowner complaints against builders.

Answer:

Tarion was created to have multiple roles, under the Ontario New Home Warranties Act. In 2012, Tarion scored an 87 per cent satisfaction rate with homeowners, telling us that while not everyone is satisfied with our services, the majority are satisfied.

In terms of board composition, Tarion strongly feels that board members require experience and understanding of the issues within our industry, therefore, it is necessary to have builders on the board. Tarion believes that it is not possible to regulate builders without the industry knowledge that builders bring to the board table. Tarion has five board members who are consumer advocates. When dealing with consumer issues, Tarion is always acting in the best interests of the consumer and considering how to advance consumer safeguards.

Like any other professional body, the majority of people that are governing those being licensed and regulated are from the profession itself, because they are in the best possible position to know how to regulate them, control them and how to make sure things aren't dodged and evaded. There are many initiatives that Tarion could not have accomplished without input from professionals within the industry, such as the Construction Performance Guidelines and the MSD warranties.

As for the conflict of interest issue, board members are not permitted to bring their personal issues to the table. Builders appointed to the Tarion board think like Tarion Directors, and act in the best interest of the corporation.

Tarion acknowledges that the organization does have issues tracking complaints, and this is something the organization is trying to improve. This issue was also raised by the Tarion Ombudsperson.

Question:

Why isn't there a Compliance Officer at Tarion that ensures homeowners' best interests are always taken care of?

Answer:

Tarion acknowledges that there is merit in possibly adding a Compliance Officer to the organization. This suggestion was noted and will be looked into.

Question:

It is important that homeowners receive their Homeowner Information Package well in advance of their PDI (Pre-Delivery Inspection). Why do we only receive it just before, or sometimes on the date of the PDI?

Also, the PDI should be conducted a minimum of five business days before closing.

Answer:

Tarion agrees with this suggestion, but acknowledges that it is not always possible to mandate this rule. Tarion is trying to make people more aware of their warranty rights, which is why the Homeowner Information Package is now available online (click [here](#) to access this document) as well as an ever-growing online video library containing helpful information, such as how to prepare for a PDI. This information is available [here](#).

Question:

A homeowner noted that the word transparency was used a couple of times throughout the presentation, however, the Tarion bylaws and executive compensation are not online.

Answer:

The bylaws are online. They can be found [here](#).

Question:

The homeowner was concerned that she received documents last minute in her condominium development. She felt that the process from the PDI forward was crushed into timelines that were not possible to get everything done. She felt these timelines should be reviewed in the Condominium Act, and there needs to be some guarantees from the builder that items noted during the PDI will be fixed before homeowners move in.

The homeowner also felt that the evaluations from MPAC were not accurate.

Answer:

Tarion does not deal with MPAC.

Tarion can look into the timelines for repairs, however, it is a very complicated process.

The Condominium Act is currently being reviewed. More information on this can be viewed [here](#).

Question:

When condominium units are sold in different timeframes, different warranty rules may apply. How would the unit holder know when the first unit was sold, and what warranty applies?

Answer:

The warranties would be based on what warranties were in effect when the first sale took place. So all unit holders in that building would be treated uniformly and consistently under the same rules. Contact Tarion to find out what warranty rules apply to your condominium.

Question:

When something is warranted by Tarion, and is paid out of the indemnity fund, the homeowners are not told that the builder wasn't charged, and also not told that those amounts are deducted from their warranty coverage. In the instance of fairness, shouldn't homeowners be informed that they have less coverage and the builder wasn't charged?

Answer:

Tarion hasn't told homeowners when builders have been charged with a chargeable conciliation, which is something the organization can look into.

It would be rare to say that if Tarion paid money out on a warrantable claim, that the homeowners wouldn't know their coverage was reduced. Tarion would conciliate the dispute, and let the homeowner know that the organization would be repairing the issue, and identify the amount it would cost.

There are two provisions within this. Years ago there were homes where, if money was collected, it restarted the warranty. That's no longer the case. So it would depend on the circumstance. The warranty is for 300,000. As of a certain date that is an absolute amount of money that would be paid by Tarion. In terms of claims, again, years ago, if there was anything that was recovered, it would also refresh the amount. If we are dealing with a situation in that earlier period, and there was money not claimed or not recovered, would that affect the warranty amount? That is something we would have to take into consideration as to whether that would actually prejudice the homeowner.

Question:

There tends to be a bias in favour of the builders. Recently, two Tarion employees conducted a seminar that was titled "Working with Difficult

Homeowners, it's not Always the Most Pleasant Situation.” Some quotes from the seminar include “learn how to educate homeowners and align their expectations” and “learn how to say ‘no’ and still keep the homeowner happy.” Is that how homeowners should expect to be treated?

Answer:

This was not a Tarion seminar, it was a Homeowner Protection Office seminar. Tarion was invited to speak, and the advertisement was not Tarion's. The advertising for the seminar was a powerful incentive to get builders into a room to discuss better customer service. The seminar was based on the need to improve communication, to understand the other person's point of view and to provide better customer service.

The answer on how to say ‘no’ to an angry homeowner was to say ‘yes.’ It was to help builders have a respectful, polite conversation with homeowners who may have an issue and how to get to resolution, which was the underlying message. The purpose of the seminar was to give builders the tools to deal with homeowners, and it was no different than the seminars we do for new homeowners to help them understand the rules and provide better education.

Question:

Why is the Occupancy Permit not dependent on the sign off by a builder, Tarion and a building inspector, since this is highly technical stuff, and this would diminish the level of disputes tremendously.

Answer:

Tarion agrees with this suggestion. Tarion has mandated that builders now provide an Occupancy Certificate to their buyers before they can trigger an Occupancy Closing or Final Closing. To accomplish the homeowner's suggestion of requiring three signatures prior to issuing an Occupancy Permit, Tarion could possibly work with the building department, as we have on other initiatives such as illegal building.

Tarion's meeting was concluded with a few words from Harry Herskowitz, the Chair of Tarion's Board of Directors. His comments focused on the issue of board composition (included in the answer to the question regarding this issue above). The following is an abbreviated list of initiatives that Tarion has accomplished during his tenure as Chair, that he felt could not have been carried out if builders on the board were not looking after the best interests of the consumer:

- Liability protection has increased for homeowners from \$150,000 to \$300,000.
- The MSD warranty liability has increased, mandating that builders are now responsible from years two to seven.
- New delayed closing and delayed occupancy warranties have been implemented.
- The coverage for delays has increased, and a schedule enforcing builders to clearly outline all adjustments on one sheet of paper has been mandated.
- Builder education is being enforced.
- A performance-based pricing model is currently being put finalized to ensure builders with poor records are penalized.

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