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## Advocacy group dissatisfied with Tarion

However, minister indicates that improvements to warranty program are unlikely

[www.tarionsucks.com](http://www.tarionsucks.com) owned by Tarion Warranty Corporation

Canadians for Properly Built Homes (CPBH), an Ottawa-based advocacy organization representing the concerns of homeowners across Canada, has called on the Ontario government to turn Tarion Warranty Corp. into a more consumer-friendly organization.

Judging from the reaction of Government Services Minister Gerry Phillips, however, consumers are out of luck if they are hoping for any substantive improvements to the Tarion program, except for possible changes to the delayed-closing procedure, later this year.

Speaking at a Queen's Park press conference last week, CPBH president Karen Somerville said her group represents the concerns of many Ontarians who are dissatisfied with the Tarion program. CPBH was founded in 2004 by Somerville and Alan Greenberg, a couple who faced serious problems with their newly built home in Ottawa and with Tarion. In trying to solve their own home problems, they talked to many homeowners, as well as builders, home inspectors, engineers and others involved in the home construction process. They learned that there are serious construction problems in Canada from coast to coast, as well as often serious problems in trying to get the warranty programs to address the issues.

Among the changes Somerville's organization advocates are:

- A clear definition in the governing legislation that the primary purpose of the Tarion program is to protect consumers. (Currently, the legislation states that the primary purpose of Tarion is simply to administer the Ontario New Home Warranties Plan and its guarantee fund.)
- Limit builder representation on the 16-member Tarion board to one builder-member representative. (There are now seven.)
- Require a minimum of eight Tarion directors to be from recognized consumer protection organizations.
- Make Tarion subject to Ontario's Freedom of Information and Protection of Privacy Act.
- Extend the mandate of the Ontario ombudsman to include the Tarion warranty program.
- CPBH also asked the government to review the operations and impartiality of the Licence Appeal Tribunal (LAT), which is charged with reviewing decisions of the warranty program.

At the press conference, Somerville provided an analysis of 52 decisions of LAT in 2006. According to the CPBH study, homeowners presented 208 warranty issues to the LAT tribunal and only succeeded in 32 (15.8 per cent) of them.

As well, homeowners appealed 23 decisions of major structural deficiencies to LAT tribunals last year but didn't succeed in any of them.

CPBH also asked for Tarion to upgrade its warranty protection to match that provided in British Columbia. Under the B.C. program, homes are warranted for five years against water penetration. In Ontario, the coverage is only two years. In B.C., major structural defects are warranted for 10 years, while Ontario homes are protected only for seven.

Tarion used to advertise that its warranty protection was the best in the country and among the best on the continent. They stopped doing that when the B.C. program coverage surpassed ours.

At the press conference, Somerville also demanded that Tarion warranty coverage be extended to a host of other areas, including all building, plumbing and electrical code violations, lot grading, model homes, design flaws, professional fees to pursue a claim for a warranted defect and condominium-conversion projects.

Following the CPBH press conference, I had a lengthy telephone conversation with Gerry Phillips, whose ministry oversees the Tarion warranty program.

In January of this year, Phillips had written to CPBH saying, "I will take your recommendation regarding the Ombudsman under consideration." In our phone call, the minister told me that extending the Ombudsman's mandate to include Tarion is simply not on the table.

"I never considered that," he told me.

Phillips also said that the main focus of Tarion at the moment is changes to the delayed closing rules. A draft report was released last fall, and Tarion plans to address the means to enhance delayed closing protection by this fall.

"I've also asked the (Tarion) board to conduct a homeowner satisfaction survey," the minister added. "We expect the results in the fall."

Last year, in the case of *Markey v. Tarion*, the Divisional Court ruled that the law governing the Tarion program is "consumer protection legislation and should be given broad and liberal interpretation."

I asked Phillips whether the Tarion legislation would be amended to refer specifically to consumer protection a provision currently missing in the act.

"I've always assumed that their role is consumer protection," Phillips told me. "Maybe there is some merit in being more explicit."

As to increasing the number of consumer representatives on the Tarion board and decreasing the number of builders, Phillips told me, "There are no dramatic moves planned ... I don't have any evidence it's not working."

I asked whether the number of complaints CPBH had received were an indicator that the program isn't working well. "We've got almost 500,000 homes enrolled (in the program)," Phillips told me. "Just because not everybody's happy doesn't mean it's not working."

In answer to my question about extending the freedom-of-information legislation to Tarion, Phillips told me, "I'm not sure whether this is another area we should expand into or not. The government always has to be somewhat cautious where you're into a business relationship."

When I asked if the government would widen Ontario warranty coverage to match the B.C. program, Phillips told me that his priority is the delayed closing issue. "Matching the B.C. warranty coverage is not our next priority," he added.

After the delayed closing issue is considered, the minister will begin looking at overall consumer satisfaction with the program.

This should coincide neatly with the fall election.

I'm not sure how concerned Tarion is about its reputation, but I recently had the chance to check the registration of the Internet domain name, <http://www.tarionsucks.com>.

To my surprise, I discovered that it's owned by the Tarion Warranty Corp. I wonder if they're planning to use it.

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## TARIONSUCKS.COM

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Tarion Warranty Corporation

5160 Yonge Street  
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Registered through: TotalChoice Hosting  
Domain Name: TARIONSUCKS.COM  
Created on: 07-Apr-04  
Expires on: 07-Apr-08  
Last Updated on: 31-Jan-06

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