



November 24, 2015

By e-mail

Ms. Linda Lamoureux, Executive Chair  
Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO)  
250 Dundas Street West, 4th Floor, Suite 401  
Toronto, Ontario, Canada, M5T 2Z5

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Subject: SLASTO/LAT & CPBH meeting of November 23, 2015

Dear Ms. Lamoureux:

Thank you for the opportunity to meet with you and your team yesterday further to our meeting on December 9, 2014<sup>1</sup>. We were very pleased that MPP Hillier was able to join us yesterday for part of the meeting. As you may recall, we expressed concern after the December 9, 2014 meeting that the timeframe you estimated of 12-18 months to resolve several key LAT issues appeared to be inadequate. Earlier in 2015, we also encouraged you, and others, (for example, those who approve the LAT's funding) to develop a much greater sense of urgency in addressing these serious LAT problems that you have acknowledged exist at the LAT.

In our meeting yesterday, as the CPBH update, I advised you that we at CPBH have been unable to see anything that can be regarded as improvements by the LAT in the past year. CPBH also recently canvassed a number of consumers, and asked them if they have seen any positive changes at the LAT in the past year. Unfortunately, no one was able to cite anything that they considered to be an improvement at the LAT. I also reported that CPBH has received a higher volume of concerns reported to our office in 2015 concerning the LAT's operations, perhaps due to a recent high profile case. As well, I referred to the 2014 CPBH LAT analysis that found that for those cases that went to the decision stage, overall, consumers lost 93% of the time, and for major structural defects, consumers lost 100% of the time. Here is a link to that CPBH analysis for your convenience: <http://tinyurl.com/ne43ba8>.

Yesterday, as the SLASTO/LAT update, we understood you/your colleagues to say that:

- your time estimate that you provided on December 9, 2014 of 12-18 months to make the necessary changes at the LAT turned out to be "ambitious";
- you are making progress on some of the initiatives you have underway to address the problems with the LAT's operations;
- you are not prepared to make any further time commitments as to when these issues will be fully addressed; instead you regard your efforts as "continuous improvement";
- you have retained the services of a Mr. Thomson to conduct an independent investigation into the afore-mentioned high profile case. Mr. Thomson was asked by your office to provide his report by the end of February 2016, but if he needs additional

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<sup>1</sup> Appendix 1 provides some highlights of what we heard on December 9, 2014 from you/your representatives.



time, that this will be granted. You are currently unsure if the results of Mr. Thomson's investigation will be made public;

- you are also awaiting Mr. Thomson's report before making any operational changes to ensure that transcripts/recordings are available to claimants;
- the LAT needs to review Freedom of Information legislation in relation to providing transcripts/recordings to the public, even though the hearings themselves are public. (Note: the missing transcripts/recordings that CPBH inquired about numerous times in 2015 concern consumers' allegations of bullying by an LAT adjudicator. Obviously, if bullying of complainants took place by an LAT adjudicator, this is a grave concern.)

Other key highlights from yesterday's meeting included:

- in relation to the ongoing low number of cases coming before the LAT related to Tarion, I advised you of Ministry of Government and Consumer Services' Assistant Deputy Minister Denton's letter to Tarion dated October 7, 2014 (copy attached) in which he said that homeowners are "dissuaded" from pursuing appeals at the LAT. (Please note that the full quote from Mr. Denton's letter is: *"..the ministry has heard from homeowners that they are dissuaded from pursuing LAT appeals because the existing processes are not transparent, and are complicated, time-consuming, costly, and unbalanced"* p. 3.) This statement from Mr. Denton is consistent with what CPBH has heard from many consumers over the past decade;
- in response to my question regarding whether the LAT will initiate a communication campaign to inform the public when the LAT has some concrete progress to share, you said no, that the LAT would not be doing that;
- I raised the issue of the LAT's decision of a few years ago to start to conceal claimants' names on LAT Decisions available to the public. I advised that a number of consumers have indicated that one of the outcomes of this change by the LAT has been that consumers are now further disadvantaged as they are no longer able to communicate with one another to better prepare for hearings, exchange information, etc. I asked if the LAT would consider reversing this decision, and report the names similar to what happens in other Ontario courts. Your representative said that this will be considered by the LAT;
- I also raised MPP Singh's proposed (but defeated) amendment related to the Condo Bill (Bill 106) that we have been advised concerns the LAT. I was asked to forward that information, and it is included as a footnote<sup>2</sup>;
- You agreed to meet with us again in late 2016 to discuss progress related to the LAT.

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<sup>2</sup> We understand that the proposed amendment to Bill 106 would have allowed the Lieutenant Governor in Council (i.e., the Cabinet) to make regulations governing actions that may be taken by the LAT under s.16(3) of the Act (and stripping Tarion of this extraordinary regulatory authority). For further information, please contact MPP Singh's office.



Following yesterday's meeting, we were struck by the lack of progress that SLASTO/the LAT has made in the past year that is transparent to consumers and the general public. This is a significant concern given that the LAT is continuing to accept cases into what many refer to as a "broken system" for homeowners appealing Tarion decisions, that is, the LAT. We were also struck, once again, by what appears to be a continued lack of urgency at SLASTO/the LAT in relation to these serious, ongoing, operational issues at the LAT.

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In closing, CPBH remains very concerned about these serious ongoing operational problems at the LAT. We appreciate that you feel that you have made progress, but from the information that we have received from the public - and from our own observations - unfortunately, there are still no meaningful, transparent, measurable improvements related to the LAT since SLASTO was established almost two years ago. CPBH's position continues to be that Ontario's purchasers of newly built homes **urgently** need – and deserve – a fair and appropriate appeal process for the largest purchase most consumers make: a home. CPBH supports this goal for Ontarians and all Canadians.

Yours truly,

Dr. Karen Somerville, PhD in Management  
President

Cc:

Premier Kathleen Wynne  
Attorney General Madeleine Meilleur  
Minister David Oraziotti, Ministry of Government and Consumer Services  
MPP Randy Hillier, PC Critic for the Attorney General  
MPP Jagmeet Singh, NDP Critic for the Ministry of Government and Consumer Services, and  
NDP Critic for the Attorney General  
MPP Jim McDonnell, PC Critic for the Ministry of Government and Consumer Services  
Ms. Bonnie Lysyk, Auditor General of Ontario  
Ms. Barbara Finlay, Acting Ombudsman of Ontario  
Mr. Frank Denton, ADM, Ministry of Government and Consumer Services  
Ms. Mary McAllister-Diks, Director, Canadians for Properly Built Homes

***Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, not for profit corporation dedicated to healthy, safe, durable, energy efficient residential housing for Canadians, and is the only organization of its kind in Canada. Working for consumer awareness and protection, CPBH is run by a volunteer Board of Directors and is supported by a volunteer Advisory Council of industry experts and other key stakeholders. CPBH earned "partner" status with the Canadian Consumer Information Gateway (Industry Canada).***



## Appendix 1 – Examples of Highlights from the December 9, 2014 meeting between SLASTO/LAT representatives and CPBH representatives

- Ms. Lamoureux indicated that she was aware of the 2013 report by the *Action Committee on Access to Justice in Civil and Family Matters*. She talked about “resetting the bar”. There appeared to be a general acknowledgement from Ms. Lamoureux and her representatives that the Licence Appeal Tribunal’s (LAT) performance needs improvement both in relation to the adjudicators themselves (specifically in relation to self-represented parties) and management and administrative processes.
- We heard that there was a commitment from the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) and the LAT to make improvements, but it was going to take 12 to 18 months for these improvements to be realized. We also heard that they were considering a user survey. Examples of specific issues identified by SLASTO/LAT representatives in the meeting included:
  - The LAT needs to better inform consumers of what to expect at the LAT and how to prepare.
  - Training is required for the LAT’s adjudicators, particularly given the nature of self-represented parties.
  - LAT performance measurements and standards need to be developed. The LAT has started to measure its efficiency and effectiveness but this requires further effort.
  - The LAT needs to become more transparent to the public in relation to its performance, e.g., against performance standards.
  - The LAT has resource issues, e.g., a “terrible” website, and insufficient information technology and related systems.