



Mar. 3, 2016

Report Card for Minister David Oraziatti – the Ontario Government’s minister responsible for consumer protection and oversight of Tarion

Grade: F - Minister Oraziatti is failing to provide adequate “oversight” of Tarion and failing to provide adequate consumer protection for Ontario’s purchasers of newly built homes. From 2009-2015, the ON government has collected approximately \$1.3 million in “oversight” fees from Tarion. What are those fees being used for?

Minister Oraziatti was appointed Ontario’s minister responsible for consumer protection, and oversight of Tarion (Ontario’s mandatory, monopoly new home warranty program) in June 2014. Initially CPBH was optimistic about Minister Oraziatti but after a year or so, CPBH realized that there was a problem: Minister Oraziatti refused to meet with CPBH representatives, and he had not responded in a meaningful way to the questions/issues that CPBH had brought to his attention (details attached). Meanwhile, Minister Oraziatti had been communicating as if he is a member of Tarion’s marketing department, rather than the Minister responsible for consumer protection. He also refers to “working with” Tarion, as if he/his ministry have a partnership with Tarion. But Tarion, a private corporation, is supposed to be independent of the Government. Minister Oraziatti appears to be content with very slow, incremental change at Tarion, while far too many Ontarians are suffering from inadequate consumer protection from Tarion.

When CPBH followed up with Minister Oraziatti about all of the outstanding serious issues and questions, both Minister Oraziatti and Assistant Deputy Minister Denton advised that answers had already been provided to CPBH. CPBH requested that their responses be resent as CPBH had not received them. But that request was met with silence. CPBH then went to the Office of the Ombudsman of Ontario for assistance in obtaining the responses, and that office suggested that CPBH process an Access to Information request. So, CPBH did that, and recently received the response – nothing of any significance was produced as a result. This is very disturbing. Why did Minister Oraziatti and Assistant Deputy Minister Denton say that answers have already been provided to CPBH? Premier Wynne promised transparency and accountability.

On Nov. 5, 2015 Minister Oraziatti announced the Tarion Review. But on Nov. 9, 2015, Ellen Roseman reported in the Toronto Star: *“...Oraziatti calls himself a consumer advocate. Yet he appears to like the status quo. “The review will take an independent look at the organization to see if improvements can be made,” he said, adding that he expects no big changes. “I anticipate that Justice Cunningham will find Tarion’s processes validated as good consumer protection measures.”* Why did Minister Oraziatti announce this Review if he has already decided the outcome? And it turns out the Tarion Review is not independent, either. It’s Mar. 3, 2016, and consumers still have not been advised about how they can meet with the Reviewer. Four months after Minister Oraziatti announced the Tarion Review, consumers still only have a government e-mail address to provide input to the Tarion Review, which many consumers have rejected due to concerns about “filtering”. The deadline for the Reviewer’s draft report is May 31, 2016. The Reviewer’s final report is due June 30, 2016.

Topic(s)	Examples of communication by CPBH with Minister Orazietti:	Response from Minister Orazietti	Status
<p>Welcome</p> <p>Consumer experiences – 57,000 Tarion “customers” dissatisfied with Tarion</p> <p>Outstanding issues reported by CPBH over the past number of years to this Ministry</p> <p>2014 Tarion employees’ whistleblower letter to Premier Wynne</p> <p>Asked if Min. Orazietti would support an audit of Tarion by the Auditor General of ON</p>	<p>June 26, 2014 – Email to welcome him to the role of Minister responsible for consumer protection and Tarion.</p> <ul style="list-style-type: none"> - Provided background to some of the serious issues consumers have been experiencing with Tarion. - Provided a copy of document submitted to Ministry officials on Aug. 10, 2010, that identified key issues with Tarion (all of which remain as issues), and to which CPBH did not receive a response from the Ministry. - Requested his response to the issues brought to Minister MacCharles’ attention in a meeting held Sept. 25, 2013, including the Aug. 10, 2010 list submitted to his Ministry. - Made him aware of the Tarion employees’ whistleblower letter sent to Premier Wynne Mar. 2014. - Advised him that according to Tarion’s own survey data, approximately 57,000 of Tarion’s customers are dissatisfied with Tarion. - Asked if he would support an audit of Tarion by the Auditor General of Ontario. Provided CPBH’s list of 10 key issues to be included in such an audit, along with related questions for each. 	<p>- None</p>	<p>- Outstanding</p>
<p>\$5.14 million questionable repair by Tarion that remains “secret”</p>	<p>July 11, 2014 – Email about sinking homes in Ontario. For example, raised questions/concerns about Tarion’s \$5.14 million repair.</p> <ul style="list-style-type: none"> - Requested that he advise if his ministry would assess four key factors and make the assessment results to the public. 	<p>- None</p>	<p>- Outstanding</p>
<p>The need for the public to have access to proper minutes from the 2014 Tarion</p>	<p>July 12, 2014 – Email requesting that his ministry post minutes of Tarion’s Apr. 30, 2014 annual public meeting on the ministry’s web-site.</p>	<p>- None</p>	<p>- Outstanding</p>

APM			
Tarion's Pan Am housing "deal"	Aug. 9, 2014 – Email requesting: <ul style="list-style-type: none"> - At least an acknowledgement that he received the June 26, 2014 e-mail - A response to the July 12, 2014 e-mail - A response to questions about Tarion's Pan Am "deal". 	- None	- Outstanding
Concerning statistics released by Tarion	Sept. 7, 2014 – Email advising Minister Oraziotti of concerning statistics released by Tarion, and requesting that he take the necessary steps to allow the Auditor General to conduct a Value for Money audit of Tarion.	- None	- Outstanding
2009 Delegated Admin. Authority Model Review – still outstanding	Sept. 7, 2015 – Email regarding his Ministry continuing to stall regarding the 2009 Delegated Administrative Authority Model Review recommendation concerning Tarion's board composition.	- None	- Outstanding
\$29 million condo class action suits	Sept. 23, 2014 – Email with Toronto Star article about \$29 million condo class action suit. Asked him to quickly introduce new legislation so that consumers don't need to resort to law suits.	- None	- Outstanding
Uneven playing field for consumers at the LAT	Sept. 30, 2014 – Email with CPBH annual analysis re LAT and requesting that he respond to questions re Tarion.	- None	- Outstanding
Various media reports of serious issues	Oct. 12, 2014 – Email providing links to various media reports of serious issues in the marketplace, including Macleans referring to Ontario as the "Wild West" (Tarion is the regulator), and further law suits launched by consumers. Requested that he advise why he has not yet taken any meaningful action to protect consumers. Also asked questions about Ministry employee Deborah Brown's role on the Tarion board.	- None	- Outstanding
MPP Marchese's six outstanding questions Secret minutes from Tarion's 2014 APM Builder disclosure re the	Oct. 13, 2014 – Email with further information about issues with Tarion. Requested: <ul style="list-style-type: none"> - That he facilitate obtaining answers from Tarion to MPP Marchese's six questions from Apr. 30, 2014 and CPBH's questions from Nov. 13, 2013. - Again that his Ministry publish minutes to Tarion's Apr. 30, 2014 meeting on the Ministry's site as these minutes should not be secret. 	- None	- Outstanding

<p>\$5.14 million sinking homes</p> <p>Ombudsman of Ontario's 2008 report re the Ministry moving Tarion toward reflecting a culture of public service</p>	<ul style="list-style-type: none"> - That he ensure that the Tarion web-site reflect the \$5.14 million repair under the builder performance section, and advise of who the builder was for the \$5.14 million Tarion repair. - That he request that Tarion make the \$5.14 million case study public. - Information regarding what his Ministry has done "to move Tarion towards truly reflecting a culture of public service" (Ombudsman of Ontario report, May 2008). 		
<p>Consumers freezing in their newly built homes</p> <p>Min. Orazietti's staff abruptly discontinued discussions re HVAC</p>	<p>Nov. 2014 to Feb. 2015 – Numerous emails related complaints from consumers about them freezing in their homes, Tarion's lack of consumer protection re HVAC and consumers' requests that Minister Orazietti facilitate a resolution to their issues with Tarion.</p> <ul style="list-style-type: none"> - Note: Embarked on a series of meetings with the Minister's staff (Michael Simpson, Chief of Staff and Jenny Shiller, Policy Advisor) about these serious issues. Simpson agreed on Jan. 15, 2015 to advise about whether he had received a key report from Tarion by Jan. 19, 2015, however, Simpson did not keep this commitment. Further, inexplicably, both Simpson and Shiller abruptly stopped communicating effective Jan. 15, 2015 for some unknown reason. 	<p>- None</p>	<p>- Outstanding</p>
<p>Alleged collusion</p>	<p>Feb. 25, 2015 Homeowner's allegations of Tarion's collusion with a builder</p>	<p>- None</p>	<p>- Outstanding</p>
<p>Tarion's "bloated" senior management and high salaries</p>	<p>Feb. 25, 2015 – Tarion's "bloated" senior management and high salaries – Raised the need for Tarion to be transparent. Also raised Toronto Sun columnist Alan Shanoff's article "<i>Time to shine light on Tarion - Intended to protect new Ontario homebuyers, the agency appears to be protecting builders instead</i>".</p>	<p>- None</p>	<p>- Outstanding</p>
<p>ON government employee on Tarion board</p>	<p>Mar. 2, 2015 – Ontario government employee on Tarion Board (D. Brown) and her refusal to respond to questions raised of her. Numerous related questions asked of Min. Orazietti.</p>	<p>- None</p>	<p>- Outstanding</p>

Min. Orazietti partnering with Tarion rather than overseeing Tarion? Meeting minutes available for review?	Mar. 4, 2015 – Min. Orazietti says he is “working with Tarion”. He is supposed to be overseeing Tarion. Are there records, e.g., meeting minutes, that are available to the public for review? What is their relationship – a partnership?	- None	- Outstanding
Request for a meeting to discuss his concerns with Bill 60	Mar. 6, 2015 – Request for a meeting with Min. Orazietti to discuss his specific concerns with Bill 60, the Tarion Accountability and Oversight Act.	- None	- Outstanding
LAT appeals – windfall for builder and Tarion if consumer sells home during an LAT appeal	Mar. 18, 2015 – Alerting Min. Orazietti to an important law suit. If a homeowner sells a home while an appeal at the LAT is underway, Tarion stops the action, resulting in a windfall for Tarion and the builder.	- None	- Outstanding
Not following his Ministry’s own service commitment, service pledge re issues with Tarion	Apr. 2, 2015 – Min. Orazietti and other key officials not following his ministry’s own service commitment, service pledge, etc. when it comes to Tarion.	- None	- Outstanding
Tarion’s inspectors	Apr. 9, 2015 – Questions about Tarion’s inspectors	- None	- Outstanding
Another meeting request to discuss Bill 60	Apr. 14, 2015 – Second request for a meeting with Min. Orazietti to discuss his concerns re Bill 60, the Tarion Accountability and Oversight Act.	- None	- Outstanding
Homeowners’ allegations that Tarion tried to hide OBC violation to deny warranty coverage	Apr. 14, 2015 – Homeowners’ allegations at the LAT: "Tarion tried to hide OBC violation to deny warranty coverage".	- None	- Outstanding
Confusing response from Min. Orazietti		Apr. 16, 2015 – rec’d an e-mail from	

		Min. Orazietti that claimed that he/his Ministry has provided responses to the questions we have raised and that the same issues are being raised in CPBH's e-mails. Min. Orazietti's e-mail provided in its entirety below.**	
Requested copies of Minister Orazietti's responses by Apr. 24, 2015	<p>Apr. 16, 2015 – Responded to Minister Orazietti's e-mail of Apr. 16, 2015, asked whether there was a misunderstanding. For example, we have not been raising the same issues, and whether his responses have somehow gone astray. Requested copies of the responses he says he/his Ministry have sent by Apr. 24, 2015.</p> <p>Please note that because Minister Orazietti said we have been raising the same issues, we have included a column to the left of this column with the subjects so that they are clear.</p>	- None	- Outstanding
Problems facing Tarion in retracting licenses of poor builders	May 3, 2015 – Legislative changes required to assist Tarion to more easily retract a builder's license when warranted.	- None	- Outstanding
Tarion superseding the ONHWP Act with regulations Tarion developed for itself	May 13, 2015 – e-mail to Minister Orazietti, DM Tilford and ADM Denton about Tarion superseding Section 13.1.iii of the ONHWP Act and leaving consumers with confirmed violations of the Ontario Building Code	- None	- Outstanding
Ministry presentation to	May 17, 2015 – e-mail to Minister Orazietti raising questions about the presentation his Ministry	- None	- Outstanding



the OHBA about planned changes to the condo act	made to the Ontario Home Builders' Association, and what consumers were consulted as part of this process.		
"Proven model"?	May 19, 2015 e-mail to Minister Orazietti, DM Tilford and ADM Denton about Tarion's reference to a "proven model" concerning Tarion	- None	- Outstanding
\$250,000 "oversight" fee paid by Tarion to Gov't of Ontario annually	June 2, 2015 e-mail to Minister Orazietti, DM Tilford and ADM Denton about \$250,000 oversight fee the Government of Ontario receives annually from Tarion	- None	- Outstanding

** E-mail from Minister Orazietti - On 4/16/2015 10:03 AM, InfoMGCS (MGCS) wrote:

This is in reply to your emails in recent months regarding, among other issues, your support for Bill 60, the *Tarion Accountability and Oversight Act*. I appreciate the effort you have put into advocating for stronger consumer protection, in both your correspondence and in meetings with my staff.

The ministry is reviewing all information related to Tarion, including correspondence received from homeowners and the recent private member's bill. The ministry takes its **oversight** role seriously and appreciates suggestions for ways to increase the effectiveness and public transparency of organizations that administer legislation on its behalf, including Tarion.

Given that substantially the same issues are being raised in your emails, the ministry will not continue to repeat responses that have previously been given. Let me assure you that all correspondence, whether addressed to me, the deputy minister, the assistant deputy minister, or other staff in the ministry, is read and considered. We are aware, through your ongoing correspondence of many years, as well as your several recent meetings with staff in my office, of your long-standing concerns with Tarion.

The ministry will **continue to work with Tarion** to support its various initiatives to improve the services it provides to new home owners. These efforts — which include increasing the amount and breadth of warranty coverage, balancing Tarion's board composition, more public outreach, and improvements to the complaint resolution process — have been outlined in previous letters to you. As noted above, the ministry will focus its responses on correspondence that raise substantively new issues.



Tarion has demonstrated a commitment to continuous improvement, and over time we have seen a decrease in the number of cases requiring Tarion's intervention. In 2008 there were over 7,100 requests for conciliation. In 2014, that number has fallen to 4,300. In that same period, actual conciliation inspections which needed to occur have decreased from more than 3,000 to 1,000. In 2014, out of over 365,000 new homes under warranty only about 1,000 (0.27%) required a site visit from Tarion. I am pleased with the progress that Tarion has made, and look forward to seeing continued improvements for homeowners in the future.

Going forward, Tarion is in the process of adding more information to the Ontario Builder Directory, including a notification when Tarion has issued a notice of proposal to revoke or refuse to renew a builder's registration or refuse to grant registration to a new applicant. As referenced in the government's 2014 budget commitment, Tarion is also working with the Ministry of Municipal Affairs and Housing on an approach to curb illegal residential building. I am pleased with the progress that Tarion has made, and look forward to seeing continued improvements for homeowners in the future.

Thank you and please accept my best wishes.

Sincerely,

ORIGINAL SIGNED BY

David Orazietti

Minister

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Note: Highlighted areas noted by CPBH.