



## Presentation to the Standing Committee on Social Policy re Bill 166

Thank you for the opportunity to present today. I will start by telling you about one of the many people suffering due to the inadequacies of the current legislation. Here is a photograph of Daniel Emery. Here is an abbreviated version of Daniel Emery's story that he told to us:

In 2007 Daniel Emery bought a newly built home in Port Dover.

There was no Occupancy Permit for the home.

He quickly found serious construction defects, including Ontario Building Code violations in this home.

He contacted Tarion and he understood that Tarion would help him.

He waited over three years for Tarion to help. Tarion did not help him.

His insurance was cancelled due to the construction defects and mould.

Without insurance, Daniel could not get his mortgage renewed.

Without a mortgage, his home went into foreclosure.

In 2011 Daniel Emery became homeless.

Daniel is still desperately seeking compensation from Tarion today.

Bill 166 will do nothing to prevent a situation like Daniel's from happening again. Bill 166 does not provide compensation for Daniel – or other families who feel that they have been wronged by Tarion. Again, Daniel's story is just one example of many, many across Ontario.

## What changes need to be made to Bill 166?

### Part A: Eliminate Tarion's monopoly and give Ontarians a choice like most other jurisdictions.

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The Government is now saying that eliminating the monopoly still needs more research. But this has been researched for decades, e.g.,:

- In 2000 the Building Regulatory Reform Advisory Group's Chair and Co-Chair recommended a competitive warranty model.
- In 2001 in a study of Home Builder Associations (HBAs), the Canadian Home Builder Association found that *"Most HBAs believe that the industry should support third-party warranty offered by private insurance companies – rather than a single warranty provider."* A quote from that study was: *"Competition makes a fair marketplace."* Given the Wynne Government's focus on fairness, and given that all of the research that has already been conducted, why is ending Tarion's monopoly still being stalled?

To be clear, research shows that both industry and consumers want choice – not a monopoly. In 2016, Justice Cunningham recommended eliminating Tarion's monopoly. His jurisdictional scan found that eight out of nine jurisdictions avoided a monopoly model. Here is the link to Justice Cunningham's jurisdictional scan <https://tinyurl.com/knahk2j>.

When there is a competitive model, home purchasers can use the warranty provider as a purchase criterion when they select their builder. In your packages, we have provided you with an example of how BC's warranty works. BC steered away from a monopoly model.

### Part B: If Tarion's monopoly is not ended:

1. Make new home warranty optional. If people see value, they will purchase it. No one should be forced to purchase from a monopoly.
2. Remove builders/builders' representatives from the Board of Tarion. Instead, establish an Advisory Board made up of builders/their representatives to provide advice to the Board of Tarion. Justice Cunningham raised the serious issue of conflicts of interest and perceived conflicts of interests. From a governance perspective, builders/their representatives on the Tarion board is an obvious conflict of interest.
3. Provide both the Auditor General of Ontario and Ombudsman of Ontario with jurisdiction over Tarion.

4. Effective immediately, have Tarion's internal Ombudsperson Office report to the Government of Ontario, rather than being on Tarion's payroll.
5. Ensure that Tarion is part of the Sunshine List that makes salaries public.
6. Expedite Bill 166 and the related regulations so that they come into force in the very near future – not 2020. There must be a sense of urgency. A Toronto Star headline on Oct. 14, 2017 read: *“Delayed action on consumer protection for homeowners a sad reflection on provincial government”* and went on to note that *“the Ontario government acted with speed in imposing a new non-resident tax on real estate purchases”*. It's critical to remember that many, many Ontario families suffering due to the serious inadequacies of the current ONHWP Act.

### **Part C: Under both scenarios (monopoly and competitive environment)**

1. Clearly define what “properly built new homes” means, e.g., meets the minimum of the Ontario Building Code.
2. Establish an independent body to review claims rejected by Tarion – for those consumers like Daniel Emery who want this option. This is very important as there are many families suffering, including seniors freezing in homes that do not meet the minimum Ontario Building Code. Tarion has considerable surplus available for claim reconsideration, e.g., Tarion's most recent published financials show over half a billion in investments, and in 2016, Tarion earned more than \$33 million in investment income alone.

Thank you for your time today. I welcome your questions.

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).

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