



Canadians for Properly Built Homes

P.O. Box 11032, Station "H", 3659 Richmond Road, Ottawa ON K2H 7T8 Canada
www.canadiansforproperlybuilt homes.com

Deputation to the Standing Committee on Social Policy Bill 59, the Putting Consumers First Act: Home Inspections

Page | 1

**Respectfully Submitted by
Canadians for Properly Built Homes**

**To be presented by
Dr. Karen Somerville, PhD in Management,
President, Canadians for Properly Built Homes
on Feb. 27, 2017**

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).



Contents

1. Background.....	3
2. CPBH Supports Regulation of Home Inspection Industry but not Bill 59.....	3
3. Perceived Overreliance on the 2013 “Home Inspector Panel Report”	3
4. Consumers First.....	4
5. Lack of Information Related to Bill 59	5
6. Impact of Regulation on Cost of Home Inspections.....	6
7. Recommended Next Step for the Standing Committee.....	6
8. Recommendations for Changes to Bill 59 if it Proceeds.....	7



1. Background

Canadians for Properly Built Homes (CPBH) has heard from many (e.g., consumers, home inspectors, the media) over the past 13+ years about the problems in Ontario's home inspection industry.

Page | 3

Prior to developing this submission, CPBH also reviewed the 2013 "Home Inspector Panel Report", and the Hansard transcripts of the 2016 debates in the Ontario Legislature regarding Bill 59. As well, there were discussions in recent weeks with different stakeholders including home inspectors and others in related industries, in addition to consumers.

This submission only relates to the home inspection portion of Bill 59.

2. CPBH Supports Regulation of Home Inspection Industry but not Bill 59

CPBH supports the regulation of the home inspection industry but it is CPBH's position that Bill 59 is seriously flawed and should not proceed as is.

There are concerns that, as written, the home inspection portion of Bill 59 may be mainly an effort to save the home inspection industry and related jobs -- and to create more revenues for the government through taxes and oversight fees -- rather than protecting consumers.

3. Perceived Overreliance on the 2013 "Home Inspector Panel Report"

- There were issues with the composition of the Panel membership, e.g., there were far too many members with vested interests, woefully inadequate representation of consumers and an insufficient number of women.
- There are shortcomings with the report, such as (in no particular order):
 - a. Inadequate attention to the costs that will ultimately be passed to consumers. There is concern that the estimated cost increases in the report may be far too low, e.g., What are the estimated costs associated with the proposed organization? Will government oversight fees included, and if so, what are they estimated to be?



- b. Inadequate attention to private inspections needed during new home construction, e.g., given serious problems with the lack of enforcement of the Ontario Building Code during construction and with the Tarion Warranty Corporation.
- c. Inadequate attention to the need for home inspectors to clearly identify Code violations. Given that this is positioned as consumer protection legislation, citing Code violations must be a critical requirement for all home inspections.
- d. Inadequate attention to accountability and transparency considerations expected by the public in today's society.
- e. Inadequate attention to alternatives to the DAA such as direct government regulation that the Panel report described in Alberta and elsewhere.
- f. Inadequate attention to the issue of some realtors recommending particular home inspectors.
- g. Inadequate discussion concerning other types of home inspectors, e.g., engineers, Tarion inspectors, and HVAC inspectors.
- Market and home inspection industry have changed significantly since the report was submitted, e.g.,
 - i. rather than the industry growth that was referenced, some are of the view that the industry is now in serious decline.
 - ii. rather than the 50% to 70% of resale home inspections indicated in the report, some estimates are that the range is now 20% to 30%.

4. Consumers First

"...add to my remarks to Bill 59, the Putting Consumers First Act. Doesn't that title imply that consumers are currently not put first in Ontario...?"

-- MPP R. Nicolls, Hansard, Nov. 23, 2016.

We agree with MPP Nicolls. If consumers WERE first in Ontario, there would already be legislation to ensure that the Ontario Building Code is enforced, and to deal with the serious problems with Tarion. Then consumers wouldn't have such a need for home inspections.



Obviously, all of the woes of the current housing market cannot be solved via private home inspections. The Government of Ontario must develop a sense of urgency related to housing, and take a comprehensive view of the serious situation - under one Ministry. New legislation in Ontario is urgently required to:

- 1. Ensure that homes meet all codes, including the OBC, during construction. This would lessen the need for private home inspections and make homes more affordable.
- 2. Fix the serious problems with Ontario's new home warranty. This would lessen the need for private home inspections and make homes more affordable.
- 3. Find an alternative to the LAT given the long-standing, serious operational issues with that organization.
- 4. Ensure a qualified, regulated home inspection industry that is cost effective and efficient.
- 5. Develop other legislation required to address the lack of affordable housing.

Further, if consumers WERE first, the organizational structure proposed in Bill 59 would not be a separate corporation, i.e., a legal entity where the board must make decisions based on the best interests of the new corporation itself, instead of the best interests of consumers.

5. Lack of Information Related to Bill 59

"...there is a concern that the bill doesn't allow for a lot of detail so that we can provide scrutiny with respect to what the framework and the layout are that are proposed for this regulation body, this scheme. I think we need to know more about these details for us to be able to provide some insight. What will the framework be? What will the layout of this regulation or licencing body be?..."

- MPP J. Singh, Hansard, Nov. 16, 2016

We agree with MPP Singh. For example, this appears to be another organization like Tarion with a board dominated by vested corporate/industry interests rather than consumers, potentially unnecessarily very high costs, and seriously inadequate transparency and oversight. Also, where are the costing models that have been considered by the Ministry? (CPBH requested this information from Minister MacCharles, but it has not yet received.)



6. Impact of Regulation on Cost of Home Inspections

"...The government cannot exempt themselves from their duty to ensure that the public is served cost-effectively and efficiently. If being a home inspector becomes prohibitively expensive, many professionals could simply quite the profession and increase the average price of a qualified, comprehensive inspection..."

--MPP J. McDonell, Hansard, Nov. 16, 2016

We agree with MPP McDonell. There is a major concern that these costs could drive the price of a home inspection up to the point that the price further deters homeowners from getting a home inspection.

It is imperative that private home inspections not become mandatory.

Instead, there should be a strong, effective consumer awareness campaign, e.g., to make consumers aware of the risks of not having a home inspection. Consumers will pay for home inspections if they see value in this service.

7. Recommended Next Step for the Standing Committee

Before proceeding with Bill 59, seriously consider a direct government model such as Alberta offers. Anticipated advantages of a direct government model include:

- A true consumer protection model that will have the best interests of the consumers as paramount – which is a primary role for government. While DAAs may be popular for the Government of Ontario, they cannot be true consumer protection organizations, as these boards must focus primarily on the best interests of the corporate itself.
- Lower costs.
- Built in transparency and accountability, e.g., Auditor General of Ontario, Ombudsman of Ontario, Sunshine list, and Freedom of Information.



8. Recommendations for Changes to Bill 59 if it Proceeds

- If Bill 59 proceeds, these key components should be built into the legislation itself:
 - a. Consumers must comprise the majority seats on the board given that this is consumer protection legislation;
 - b. It must recognize the need for inspections of newly built homes, e.g., during construction at various critical stages, and not assume that inspectors are only for resale homes;
 - c. Home inspections must not become a mandatory requirement to be paid for by consumers. (A strong, effective communication campaign should be launched to inform consumers about the regulation of the industry and the risks of not having a home inspection. However, consumers must have the freedom to decide whether to hire a home inspector or not. If consumers see the value, they will hire a home inspector);
 - d. Inspection reports must clearly identify and cite the reference for all Code violations given the importance of health and safety issues;
 - e. It is imperative that the Minister keep control of the regulations throughout the life of the organization, and not delegate them to the organization. (Section 75 says “The Minister **may** make regulations”);
 - f. Realtors must be prevented from recommending a particular home inspector;
 - g. Salaries must be subject to the Ontario Sunshine list;
 - h. The Ombudsman of Ontario and the Auditor General of Ontario must both have jurisdiction over the new organization;
 - i. The new organization must be subject to Freedom of Information;
 - j. Alternatives to the LAT must be considered given the well-recognized operating problems with the LAT.