

2018 Annual Public Meeting

Additional Questions & Answers

Q: Builders are advertising their construction as LEED Silver, Gold, Platinum, etc. Since a LEED Certified building meets a 3rd party standard, the residents can be assured that they will benefit from an improved environmental footprint and an energy efficient facility. If a builder so advertises their building will be to a specified LEED Standard, will Tarion ensure that the specified standard as advertised is met by the builder?

A: As a general rule, statutory warranties do not extend to “over code” promises by the builder. Rather, the 1-year, 2-year, and 7-year warranties, are based upon the standard of the Ontario Building Code and industry standard. Promises of higher standards of building construction and of confirmation of an improved environmental footprint are not backstopped by the statutory warranties.

One possible exception relates to the substitution warranty. Specifically, if it can be shown that specific items of construction or finishing were not provided or were inferior quality to that promised, then there may be a remedy if the item provided or not provided is of lesser quality than the item referred to in the purchase agreement.

Q: It's hard to understand how exactly things should be done by builder. Could you recommend some really detailed documentation that builders should follow?

A: Builders must adhere to the standards of the Ontario Building Code and these standards are available on the Ministry of Housing website.

Tarion also provides Construction Performance Guidelines which are based on the Ontario Building Code and industry standard and can serve as a resource for homeowners to determine if defects in their home may be warranted. The [Construction Performance Guidelines](#) are available on Tarion.com. Recently we launched an illustrated version of the guidelines called [Home Explorer](#) to make them more user-friendly for homeowners.

Q: Is there compensation for when the homeowner takes time off work and no trades show up?

A: We understand that homeowners often need to take time off work for repairs, if e.g. trades do not show up as expected. However, the new home warranties in Ontario (like, for example, car insurance) do not provide for compensation for time off relating to a claim. The focus of the warranties is in having the repairs done.

Builders are expected to be fair and reasonable when scheduling repairs and should provide a minimum of two business days' notice for repairs.

If they do not show up repeatedly for scheduled repairs, you can notify Tarion.

Q: New homes are being constructed without particle board exterior walls; R5 insulation boards are being used instead. In our new home we are having severe issues with walls and attic joists creaking and shifting in windy conditions and even during thermal expansion and cooling throughout the day. We'd like to know what warranty coverage exists specifically for insufficient cross bracing, gaps between abutting panels, and constant load cracking noises resulting from this construction practice.

A: All construction materials that are used for the structure of a home must be sized correctly and otherwise meet the requirements of the Ontario Building Code (OBC) – and are subject to inspection by the municipality. Specifically, there are requirements for the adequate bracing of wall systems.

We recommend that you contact your builder with respect to your concerns and if you are not satisfied, you can file a warranty claim with Tarion so that your questions can be addressed more specifically in the context of your home

Q: When a claim is made through Tarion because of an unresponsive builder, can you walk us through the process and time frame?

A: You have two opportunities in your first year to file a statutory warranty claim. Your defects should be reported on a 30-Day Form and a Year End Form. When you submit a warranty form, the builder has 120 days to resolve the warranted items. If the items remain outstanding after the 120 day period, you have 30 days to contact Tarion to request a conciliation. A conciliation gives Tarion the opportunity to assess the outstanding items to determine if they're warranted. If you don't request a conciliation, it will be assumed that the items are either resolved or withdrawn. Once a conciliation has been requested, a builder gets a second builder repair period (30 days) to address the

items. Once the conciliation takes place, a Tarion representative will issue a Warranty Assessment Report outlining what is covered under the warranty. The builder will then have 30 days to repair any warranted items. If they do not repair the items listed on the report, then Tarion will settle the claim directly with you.

If you are having difficulties communicating with your builder, you can contact Tarion and we can assist in re-establishing communication, for example through early intervention. If you have an emergency or health and safety situation and your builder is not responding, you should contact Tarion immediately.

Q: Why does Tarion only allow a homeowner to submit one 30 day form and one Year-End Form?

A: The first 30 days in a home is the time when many issues are identified. We ask homeowners to submit their 30-Day Form near to the end of that first month to try to ensure that all the issues that may have shown up in the PDI and in those first few weeks in the home are captured on one form. The builder then has 120 days to address all those items.

Other issues might take longer to identify as you spend more time in your home. These are the items that you can list on your Year End form. We suggest that you keep a running list. Submitting one form at the end of the year, also gives you the opportunity to note any items that still might be outstanding from the 30-Day Form.

While you may only have two opportunities to submit warranty forms in your first year of possession, there is no limit to how many times you can report an issue to your builder.

In any given year, more than 50,000 homeowners take possession of new homes. Limiting each homeowner to a single 30-Day Form and a single Year End Form has allowed us to better manage the flow of documentation and to provide a more timely response.

If you have an emergency or health and safety situation and your builder is not responding you may call Tarion at any time to discuss the matter with a representative.

Q: Why does Tarion charge roughly \$282 to open a complaint against a builder just to see if the items are covered by warranty?

A: There is no charge for filing a warranty claim form – 30-Day, Year End and so on. The fee you refer to only arises if Tarion is being asked to conduct a conciliation which usually involves an onsite inspection. In the first instance, this amount is simply a

deposit. If after conducting the conciliation Tarion finds that at least one of the items we inspect is covered by the warranty, we refund the conciliation fee to you. In over 90 per cent of cases, homeowners get their money back after the conciliation. We also refund the fee if you cancel your inspection with at least 24 hours' advance notice. So, if you and your builder happen to work things out and you no longer need our help, we'll return the money to you.

Q: How long does the builder have to obtain an approved grading permit?

A: It would depend on what the agreement is between the developers and the Municipality. Tarion does not get involved in these agreements.

Q: Typically roof warranties span 15-20 years but our builder only covers the first two years. We have no warranty documentation on the roof or other items such as the furnace, air conditioner, humidifier etc. Is there a process to force builders to provide this info on manufacturer warranties to the homeowner?

A: The warranty for roof shingles will vary depending on the manufacturer's warranty and type of shingle. The roof construction will have the benefit of the 30-Day and 1-year workmanship and material warranty and possibly the 2-year warranty.

While there is no requirement under the Ontario New Home Warranties Act for the builder to provide the manufacturer's warranty information to the homeowner, it has been our experience that most builders will provide that information. If you are having difficulty obtaining this information, our staff can help in following up on your request.

Q: How will I know if my builder registered our houses under construction as townhouse or condominium? Is there any specific characteristics for a building to be considered as condo? My house is semi-detached ranch or semi-detached bungalow per my definition. But the builder may call it differently.

A: A "condominium" is a type of real estate divided into several units that are each separately owned, surrounded by common areas which are jointly owned like walkways, lobbies, pools, workout rooms. These common areas are referred to as common elements.

Your home can be a townhouse that is part of a condominium development.

The information should be available in your Agreement of Purchase and Sale (“APS”) or the materials accompanying the APS. You can also ask your builder what type of home it is or call Tarion and we can look into your enrolment information and let you know.

Q: Our builder enrolled our home in May 2016 but we didn’t purchase the home until February 2017 and moved in May 2017. This means our one-year warranty had already expired. Is it normal for a contractor to enroll a home as soon as he starts to build it? Do I have to inform Tarion that we bought the home and have the paperwork changed?

A: A builder is required to register with Tarion and enroll all the homes they intend to build. The warranty start date however is based on when the home is completed and the homeowner takes possession. Once the home is complete, a builder must fill out a Certificate of Completion (“CCP”) and submit it to Tarion. It is the date of possession which is the warranty start date and this should be shown on the CCP.

If you have any questions, you should contact Tarion with your date of possession and enrollment number.

Q: If a window surface has noticeable scratches even from more than one-metre distance, should builder replace it? Scratches are on outside surface.

A: According to our [Construction Performance Guidelines](#), windows should not have scratches visible from a distance of 1.5m at the time of the Pre-Delivery Inspection (PDI). The PDI is a record of the state of the home when it is being turned over to the homeowner and helps distinguish between issues that existed before possession and those that occurred after possession. A scratched window may be warranted under the one-year warranty on workmanship and materials but should be noted on the PDI form and reported on a 30-Day Form.

Q: If a person makes a claim or a case regarding an illegal builder what type of response is Tarion mandated to give the complainant?

A: Illegal building hurts homeowners, local communities and the reputation of the industry. Tarion encourages the public to report potential illegal building activities by calling 1-800-786-6497, or by sending an email to enforcement@tarion.com. Tarion takes these leads seriously, and will follow-up on each one, by first reaching out to the individual who provided Tarion with the tip. Once an investigation takes place, Tarion

may not be able to share the details due to privacy reasons or to ensure the effectiveness of the investigation. If the findings result in charges however, we will make this information public and will share it with the individual who originally reported it.

Q: What do you do if you have the builder out to review the problem areas but they just keep pushing it back to say that's the way it is.

A: You can contact Tarion for advice as to whether these items would be warranted. Our Tech Desk may be able to provide assistance over the phone or you can consult the [Construction Performance Guidelines](#) on Tarion.com. If you are still not sure then you can submit the item on a statutory warranty form providing you are within the applicable warranty timeframe. Once your builder's repair period ends, you can request a conciliation and Tarion will assess the item to determine if the item is covered under the warranty.

Q: Does the Ontario Builder Directory give any insight into the reputation, good or bad, of the builder?

A: The Ontario Builder Directory or OBD, allows you to see if your builder is registered with Tarion and therefore, legally permitted to build or sell homes in Ontario. You can also look up their contact information and related companies under which they operate, how many homes they have built and the communities where they build. You can also see their warranty claims history and if they have been a finalist or a recipient of a Homeowners' Choice Award or Ernest Assaly Award in the last three years. Claims history and awards can both provide an indication of a builder's level of customer service.

The OBD is just one of the ways that you can research your builder. Other ways to gain insights into a builder's reputation include:

- Visiting a builder's website and online media channels to see what their customers have to say about them.
- Visiting model homes or suites to get a sense of their workmanship.
- Visiting the communities the builder has built and potentially talking to some of the homeowners.

Q: How are builders held to account for the items listed in 30-day, one-year and two-year Tarion submission forms?

A: Once a homeowner has submitted a statutory warranty form, a builder has 120 days to address the items on the form. For any items that are still outstanding after the 120-repair period has passed, a homeowner should request a conciliation inspection. This will give Tarion the opportunity to do an assessment. If conciliation is not requested, it will be assumed that the items on the warranty form are resolved or withdrawn.

Once the conciliation is completed, if the items are deemed to be warranted then the builder is charged \$1,000 for the conciliation and will be given another 30 days to make the necessary repairs. If after 30 days, the items have not been resolved by the builder, then Tarion will step in and work directly with the homeowner and the builder will be invoiced for the cost of the repairs.

Q: When does the deposit for conciliation not get refunded?

A: There are two occasions when a conciliation fee will not be refunded;

- When all items on your warranty assessment report are not warranted; or
- When you do not provide Tarion with a 24 hour notice when cancelling your conciliation inspection.

Q: Can you put items on your one-year form that you did not include on your 30-day form?

A: Yes. A homeowner should report any new issues that may have arisen since submitting the 30-Day Form on the Year End Form.

Q: Builders are signing owners into exorbitantly high rental agreements. Is there any way we could get out of these high rental fees? I feel owners are being gouged by the builder and supplier.

A: There are no specific regulations under the Ontario New Home Warranties Plan Act that govern the disclosure of these types of rental agreements. Accordingly, in general the inclusion of these types of rental agreements are not covered under the warranty protections administered by Tarion.

Purchasers may have common law rights in respect of the rental agreements in certain circumstances. There may be two possible scenarios. If the purchase agreement does

refer to the assumption of a rental contract for an item like a water heater, it is possible that the purchaser will be bound by the agreement even if they did not read that part of the contract.

If there is no disclosure in the purchase agreement of the requirement to assume a rental water heater contract, there may be no obligation to assume the contract.

In either case, it's important for a purchaser to get legal advice.