

CODE OF CONDUCT FOR ENFORCEMENT AND COMPLIANCE PERSONNEL

Purpose

The purpose of this Code is to set out clear guidelines for the conduct of Compliance Activities and Enforcement Activities under the *Ontario New Home Warranties Plan Act* and its regulations (“ONHWPA”).

Application

This Code applies to all Compliance Personnel and Enforcement Personnel.

Definitions

“Compliance Activities” means activities carried out by Tarion where owners, purchasers, vendors and/or builders must comply with certain obligations under the ONHWPA and includes warranty assessments, chargeability determinations, inspections, claim resolution, and assessments of applications for enrolment and qualification for enrolment.

“Compliance Personnel” means Tarion employees, as well as any third-party contractors and legal counsel retained by Tarion, who carry out Compliance Activities.

“Enforcement Activities” means activities carried out by Tarion in connection with warranty eligibility investigations and decisions as well as investigating and prosecuting provincial offences under the ONHWPA.

“Enforcement Personnel” means Tarion employees, as well as any third-party contractors and legal counsel retained by Tarion, who carry out Enforcement Activities.

Code

Tarion recognizes that Compliance Activities and Enforcement Activities (as applicable, “Activities”) can have a significant impact on the persons involved. Tarion’s Compliance Personnel and Enforcement Personnel have an obligation to maintain public trust, which is promoted by adherence to this Code.

Compliance Personnel and Enforcement Personnel are expected to abide by the following elements of professionalism:

Fairness and Objectivity – Carry out Activities fairly and objectively, without favour or ill will, and make decisions based on relevant law, policies and procedures.

Honesty and Integrity – Carry out Activities honestly and with integrity, in a manner that inspires confidence and public trust, and in compliance with any applicable rules of professional conduct.

Respect – Treat persons with courtesy and respect.

Timeliness – Conduct and conclude Activities in a timely manner and in accordance any prescribed timelines.

Confidentiality – Treat all information obtained in connection with Activities as confidential unless Tarion’s Access to Information and Privacy Code requires or permits otherwise.

Knowledge and Competence – Take steps to continually renew and improve knowledge and competence required to carry out Activities.

Independence – Be objective and impartial and avoid any situation where a personal interest is, or may reasonably be perceived to be, in conflict with responsibilities under the ONHWPA or professional obligations.

Legal counsel retained by Tarion for the purpose of carrying out Activities shall:

1. Abide by this Code where applicable.
2. Serve the general public’s interest and seek to uphold the rule of law and the integrity of the justice system.
3. Respect the honour and dignity of the role and profession, maintaining the highest professional standards of honesty and fairness.
4. Comply with the Rules of Professional Conduct established by the Law Society of Ontario.
5. Respect the accused person’s right to a fair trial.
6. Promote a fair and reasonable disposition of the legal proceeding and, in connection with provincial offences, not strive for a conviction at all costs.
7. Never knowingly make a false or misleading statement of material fact or law to an adjudicator or offer evidence that is known to be incorrect. If this somehow occurs, take all necessary steps to correct it as soon as possible after the error is discovered.
8. Never discuss matters relating to a case with a presiding adjudicator without the participation of the other party or their counsel.

Exercise of Statutory Powers

This Code is not intended to restrict Compliance Personnel or Enforcement Personnel in the exercise of statutory powers or interfere with the exercise of discretion in Compliance Activities or Enforcement Activities.

Review

This Code will be reviewed by Tarion annually.

Last reviewed and approved: December 6, 2021