

# Tarion failing homebuyers, auditor finds

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Ontario Auditor General Bonnie Lysyk tabled her scathing report Wednesday. (Christopher Katsarov/Canadian Press)

Tarion, Ontario's home warranty agency, has failed thousands of new homebuyers by placing the interests of builders ahead of theirs, according to a scathing report tabled by Bonnie Lysyk, the province's auditor general.

Tarion is supposed to ensure builders honour their warranties on new homes. The service is mandatory for new homebuyers, and the cost is typically built into the price of a new home.

Lysyk found the agency, which also regulates the industry, has until recently operated with very little oversight and was allowed to write its own rules.

Lysyk found most of the public complaints about Tarion's dispute resolution process were justified, and that the Ontario Home Builders Association (OHBA) "had disproportionate influence over Tarion's decisions and operations."

## Sponsored industry dinner

Under Tarion's own rules, half of its 16-member board of directors must be nominated by the OHBA, which must also approve any regulatory changes.

Tarion even spent \$185,000 over the last five years to sponsor a dinner at the industry association's annual conference. The auditor has recommended Tarion cease that practice, and the agency has agreed.

"We found that this relationship between the Tarion Board and the OHBA created an imbalance over the years that favoured the interests of builders at the expense of homebuyers," the auditor wrote.

"Some Board decisions, such as the implementation of the 30-day submission window, made it difficult for homeowners to access Tarion's services when they needed them most, resulting in the denial of thousands of claims."

A review of 40 random cases where homeowners were denied help after missing the complaint window found 13 involved such major issues as cracked foundation, water leaks, inadequate insulation and even a building code violation — the minimum standard for safety in a home.



The Ontario Home Builders Association represents the interests of the industry in the province. (Sean Kilpatrick/Canadian Press)

## Rich salaries

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The auditor also found Tarion is failing to collect warranty payouts from builders, recovering only about 30 per cent of the \$127 million the agency has forked over to homeowners in the last decade.

Despite these shortcomings, Tarion's president and CEO, Howard Bogach, earned \$681,616 in base salary and incentives in 2018, plus an additional \$87,794 in car allowance and pension contributions.

In total, Tarion paid out more than \$4 million in executive compensation last year.

Even though Tarion is supposed to operate as a non-profit, the auditor found many of those incentives focused on maximizing profit and minimizing expenses, "which can have the unintended consequence of keeping claims payouts to a minimum."

In her report, Lysyk wrote that "these incentives might be better suited to a profit-making insurance company than a not-for-profit delegated authority with the mandate to help new homebuyers."



Howard Bogach, president and chief executive of Tarion, made \$681,616 in base salary and incentives in 2018. (CBC)

## Changes coming

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Among Lysyk's 32 recommendations was a call for greater government oversight of Tarion.

The Ford government has described Tarion as "broken," and has already instituted a number of changes, including stripping Tarion of its regulatory powers and handing those responsibilities to a new agency to mitigate conflicts of interest.

Consumer Services Minister Lisa Thompson has also mused about ending Tarion's monopoly on new home warranties in Ontario, opening the field to private competition.

Tarion and the ministry have both agreed to implement all of Lysyk's recommendations.

"We thank the Auditor General for her recommendations and look forward to acting on them with the best interests of homeowners in mind," Bogach said in a press release Wednesday.

The ministry said it will track Tarion's specific actions toward addressing the auditor's recommendations.

Lysyk's audit also found:

- Tarion issued licences to builders with poor warranty records.
- Senior management was rewarded for minimizing payouts to homeowners.
- Tarion dismissed thousands of requests for help from homeowners who missed Tarion's "restrictive deadlines."
- Tarion took as long as 18 months to compensate homeowners for builder defects.
- Tarion describes itself as a "home warranty provider," when in fact it's the builders that provide the warranties.

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