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**Official Report
of Debates
(Hansard)**

G-29

**Journal
des débats
(Hansard)**

G-29

**Standing Committee on
General Government**

Rebuilding Consumer
Confidence Act, 2020

1st Session
42nd Parliament

Tuesday 23 June 2020

**Comité permanent des
affaires gouvernementales**

Loi de 2020 visant à rétablir
la confiance chez
les consommateurs

1^{re} session
42^e législature

Mardi 23 juin 2020

Chair: Goldie Ghamari
Clerk: Valerie Quioc Lim

Présidente : Goldie Ghamari
Greffière : Valerie Quioc Lim

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CONTENTS

Tuesday 23 June 2020

Rebuilding Consumer Confidence Act, 2020, Bill 159, Ms. Thompson / Loi de 2020 visant à rétablir la confiance chez les consommateurs, projet de loi 159, Mme Thompson	G-775
Ontario Home Builders' Association; Heating, Refrigeration and Air Conditioning Institute of Canada; Mr. Sid Cohen	G-775
Mr. Joe Vaccaro	
Mr. Martin Luymes	
Ms. Dorothy McCabe	
Mr. Sid Cohen	
Mr. David Roberts.....	G-786

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Tuesday 23 June 2020

Mardi 23 juin 2020

The committee met at 0900 in room 151 and by video conference.

**REBUILDING CONSUMER
CONFIDENCE ACT, 2020**

**ONTARIO HOME BUILDERS'
ASSOCIATION
HEATING, REFRIGERATION AND AIR
CONDITIONING INSTITUTE OF CANADA
MR. SID COHEN**

**LOI DE 2020 VISANT À RÉTABLIR
LA CONFIANCE CHEZ
LES CONSOMMATEURS**

Consideration of the following bill:

Bill 159, An Act to amend various statutes in respect of consumer protection / Projet de loi 159, Loi modifiant diverses lois en ce qui concerne la protection du consommateur.

The Chair (Ms. Goldie Ghamari): Good morning, everyone. I call this meeting to order. We are meeting to conduct public hearings on Bill 159, An Act to amend various statutes in respect of consumer protection. Today's proceedings will be available on the Legislative Assembly's website and television channel.

We have the following members in the room: MPP Tom Rakocevic, MPP Sheref Sabawy, MPP Bob Bailey, MPP Daryl Kramp and MPP Mike Harris. The following members are participating remotely: MPP Amarjot Sandhu, MPP Mike Schreiner, MPP Jennie Stevens and MPP Daisy Wai.

We are also joined by staff from legislative research, Hansard, interpretation and broadcast and recording.

To make sure that everyone can understand what is going on, it is important that all participants speak slowly and clearly. Please wait until I recognize you before starting to speak. Since it could take a little time for your audio and video to come up after I recognize you, please take a brief pause before beginning. As always, all comments by members and witnesses should go through the Chair.

Like before, I will allow for a little bit of leniency, and I would ask members to kindly direct their questions to whichever witness or presenter they wish to speak with, just in order to make the process more efficient and get some clarity.

Are there any questions from the members before we begin? All right. Have any other members joined us since this meeting commenced at 9 a.m.? No.

The Chair (Ms. Goldie Ghamari): I will now call upon our scheduled presenters. Each group of presenters will have up to seven minutes for their presentation. You will state your name for Hansard and then you will begin. I will be keeping time.

From the Ontario Home Builders' Association, we have Joe Vaccaro, chief executive officer. Joe, please state your name for the record, and then you may begin. You will have seven minutes. Thank you.

Mr. Joe Vaccaro: Joe Vaccaro, Ontario Home Builders' Association.

Thank you, Chair. The home builders' association works through a network of local associations across Ontario, from Windsor to Ottawa, Thunder Bay to Niagara, and all points in between. With 4,000 member companies across Ontario, we are the voice of the residential construction industry, builders, developers, professional renovators and professional services.

Through the new home warranty act and program more than 45 years ago, home building and home builders are a regulated profession in Ontario. The previous act combined both a regulatory function and a warranty administrator.

The home building process has changed since 1976, but not the principles behind the original act: that every new home in Ontario would have a legislated, mandatory new home warranty that the builder provided; that a new home builder in Ontario would be licensed with ONHWP to confirm that you have the technical expertise and financial resources to service the consumer and warranty obligations; and that ONHWP would be that warranty assurance and administrator and would be self-funded, with no taxpayer money, creating a compensation fund for consumers if the licensed builder was unwilling or unable to satisfy their warranty obligations.

In this way, with the 1976 model of regulatory and warranty assurance, the government created a consumer protection agency and model that licensed home builders and provided warranty assurance. Ontario home builders supported the creation of ONHWP 45 years ago. As a

regulated profession in Ontario, OHBA and our member companies continue to support these principles, and OHBA will continue to support improvements that will build consumer confidence in the new home buying process.

The legislation presented today takes the regulatory and warranty parts and separates them into two standing DAAs. Our members have questions on how this model will function. How does licensing operate separately from underwriting? How will claims be managed through the warranty plans? What does that mean on the licensing side? How will small builders, with 80% of licensed home builders building less than 10 homes a year, manage the two-step process of licensing and warranty enrolment?

It is important to note that many home builders are still family operations, with their family name right there in front of every new home they build, proud of their community contribution and volunteerism, proud of their reputation. You can see them on Thursday night at the bowling alley or Friday at the legion or at the rink on Saturday morning, sometimes even driving the Zamboni.

Let me start by stating that the bad experience of homeowners should never be ignored. They have lived through an experience. They have clear feelings and concerns, and by sharing them, they help make improvements to the system.

At OHBA, we do not get involved in individual builder warranty cases. We work to represent the membership and industry through the public policy framework. Within that framework, it is important to understand that before a builder can make a sale, they need to be licensed by the builder regulator. That licence means the home builder can now enter into a sales agreement, they have contractual and mandatory warranty obligations and they are bound to that home for seven years.

When the builder makes that sale, they enrol their home into the warranty program and get an enrolment number. That builder makes a building permit application and as required by Ontario law, under the Tarion section, they must provide the registration number. The new home permit application plans are reviewed, certified, and conform to applicable law, building code and other requirements. This home is not getting designed on the back of a napkin. The permit gets issued, and now we are into construction.

Construction of a new home has 11 legislative requirements and municipal inspections. There are 40 trades, with licensed trades, like plumbing, electrical, HVAC, working from approved designs to a point of completion. When the municipal building official provides the occupancy permit, the home has been deemed safe for occupancy and the homeowner can move in.

Now the warranty provider provides assurance for this home, third-party-certified and validated by this process. It is ready for the homeowner. The homeowner should have the information, process and construction performance guidelines provided by the warranty administrator so that if, but more importantly, when, the homeowner identifies items they are not satisfied with, they can make

a claim that provides the builder with a list and support with the warranty administrator.

The homeowner needs the warranty administrator to have a public and orderly process for building service and to determine if the claim is warrantable. This is the system of new home construction in Ontario: a licensed builder; municipal permits and inspections; licensed designers and trades; and a mandatory warranty with the administrative process and powers to resolve claims, including a guaranteed fund to protect the consumer, if needed.

This is a good system, but systems are not perfect. They always need improvement. So what are the improvements that we have identified at OHBA that will build consumer confidence in the new home buying process? Always make supports to continue in licensing of home builders in Ontario. Only licensed builders should be building new homes in Ontario for sale. We are still looking for legislative clarity on the issue of illegally built homes and unlicensed builders: individuals who claim to build a home for themselves and then sell to the public with no warranty or consumer protections.

OHBA supports the principle that board governance of the regulator includes the regulating industry on the boards. The Ontario College of Teachers have teachers on their board. Professional Engineers Ontario have engineers on their board. The College of Nurses have nurses on their board. The Law Society of Upper Canada have lawyers on their board. Regulatory agencies have regulated professionals on their boards.

OHBA supports the principle that licensed manufacturers of the product—in this case, the home—should be on the warranty administrator board. Manufacturers understand the limits of what can be warranted and provide a practical, real warranty to the product. Yes, you should include other representatives, but the product makers understand the practical limits of the product. One-hundred-year warranties are not practical. In both cases, the regulated professional and the licensed manufacturer of the product understand the system involved in getting the service or product to market.

OHBA continues to support legislative mandatory builder warranty on every new home. Ontario was the first to provide this in Canada. Alberta only required this in 2014. The government had decided to maintain the single-warranty administrative assurance model. Now we need to work on the improvement for education, information, decision-making that the warranty administrator needs to make for consumers and for—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Joe Vaccaro: If it is a builder warranty, it is important that the builder and the consumer have a shared understanding of what is a warrantable claim and what is not. This requires public construction documents, consistent decision-making that builds credibility in claims decisions.

If the consumer's claim results in a dispute with the builder warrantability, the sooner the warranty decision is made and explained, the better for all. There are lots of hands involved in building a home. If the builder got it wrong, it should be reflected in the builder directory.

OHBA says yes to a builder's code of ethics. A value statement should be the cornerstone of a new regulator. OHBA will continue to make recommendations regarding the new regulatory and warranty model. We recognize the changed approach the government has put forward and we do have concerns. Our members do understand—

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes your time.

We'll now turn to our next group of presenters. From the Heating, Refrigeration and Air Conditioning Institute of Canada, we have Martin Luymes and Dorothy McCabe. Please state your names for the record and then you may begin. You will have seven minutes. Thank you.

Mr. Martin Luymes: Yes, it's Martin Luymes. I'm vice-president of government and stakeholder relations at the Heating, Refrigeration and Air Conditioning Institute of Canada.

Ms. Dorothy McCabe: And this is Dorothy McCabe, also with HRAI Canada.

0910

Mr. Martin Luymes: Okay, I'll start. Good morning, Madam Chair and committee members, and thank you for the opportunity to address the committee today. We appreciate it.

It seems like only yesterday and yet a lifetime ago that HRAI Canada, with some of our members, was able to meet in person with Minister Thompson, Chair Ghamari and committee members Mike Harris and Mike Schreiner at our day at Queen's Park on March 4. It's a pleasure to see some of you again today. It's also nice to see Joe.

Our sector welcomes the opportunity to comment on Bill 159, specifically some of the proposed changes to the Consumer Protection Act that are included. I'd like to say at the beginning that we appreciate the work that Minister Thompson and her staff have done already in listening and responding to the concerns that our industry has raised over the past several years on the matters that are proposed to be addressed through these regulatory changes.

HRAI Canada is the national trade association for the heating, ventilation, air conditioning and refrigeration industry, representing approximately 1,250 member companies across the country and about 900 businesses in Ontario. Our members include manufacturers, wholesalers and contractors, who collectively employ tens of thousands of skilled trade professionals across the country and contribute more than \$12 billion annually to the Canadian economy. HRAI also provides technical certification training that is recognized across the country.

Before I start in with our comments, we also want to acknowledge and thank all elected officials from each political party and the public service for your ongoing efforts to address the COVID-19 pandemic. We thank you for your time and energy that's been spent on this crisis.

We'd also remind the committee and others that in situations that involve managing an airborne virus, we are a sector that understands air circulation and ventilation. HRAI and its members are prepared to work with governments across the country to contribute our industry

expertise in addressing the pandemic and in managing its consequences.

Regarding Bill 159, it should be noted that HRAI has been trying for many years to tackle the problem of door-to-door selling tactics that were used by a very small number of companies in the marketplace. It's not an approach to sales that is used by any of HRAI's members, and in fact probably not by more than a fraction of 1% of all HVAC companies in Ontario. Yet the practice itself, and the consumer and government reactions to it, have cast a negative light on our sector that is undeserved and does not reflect the integrity and customer focus of the vast majority of HVAC contractors. The tactics of a few companies have caused confusion with the general public regarding how our sector operates.

We were pleased when this government undertook to tackle this problem with previous regulatory initiatives. The regulations governing direct contracts have been thoroughly discussed with ministry staff over the last several years through multiple iterations, and in the end we were satisfied with most of the language that was adopted.

A remaining issue was how to give the regulations some teeth to ensure compliance, so when this latest legislative amendment introducing administrative penalties under the Consumer Protection Act was put forward, we were generally pleased. However, we have a few serious concerns to mention.

First, on administrative penalties, we believe that penalties of this type can be an effective regulatory enforcement tool if they are designed and applied appropriately. We appreciate that the proposed fines are escalating and reasonably substantial, although the language of the legislation is still somewhat heavy-handed.

We don't believe that it's the government's intention nor the spirit of the legislation to punitively target business owners because of potential administrative errors. It is critical that these administrative penalties are not used to punish reputable, licensed, certified tradespeople who might inadvertently make an administrative error while, for example, completing forms.

In consultations with the industry task force we quickly put together comprised of small, medium and large business representatives, concerns were raised about some of the contract stipulations which might appear to be straightforward but which, because of some circumstances unique to our sector, might in fact be difficult to deliver.

Table 1 in the proposed regulation lays out 31 different types of contraventions, including a number of contraventions of direct contract language. As one example, item 19 requires that a supplier—or an HVAC contractor, in our case—would provide in their contract a date certain for the commencement of a specific service or installation. In reality, there are a myriad of reasons that might complicate this. For example, because HVACR products originate mainly in the United States and overseas, product availability can sometimes be an issue. This is currently the case as a result of the pandemic. Some factories in the US and Asia were shut down, and so availability of certain

types of air conditioning equipment—it's very difficult at the moment. Therefore, providing a specified date for certain forms of installation may be a challenge in some circumstances.

Similarly, if the HVACR installation is part of a larger renovation project, the order and timing of the work might make it difficult to predict when the HVAC component will be included or be installed. Occasionally, furnaces and air conditioning systems are sold together as a system, and a date for commissioning of an air conditioning system cannot be provided at time of installation if that's done in the winter months, as it—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Martin Luymes: —requires specific outdoor temperature minimums.

Finally, even with the existence of a cooling-off period, it would be difficult to provide a firm date in the event that a customer changes their mind. HRAI does not contest the benefit of this provision, but we believe that more appropriate language is available to address these issues. We will commit to providing some recommendations to ensure that the proposed contract conditions can reasonably be met by any duly qualified HVAC business without imposing unfair or untenable expectations.

More importantly, the industry has a concern with the lack of clarity regarding how these penalties could be administered and disputed. For example, we are very concerned that focusing on administrative penalties on largely technical and administrative issues could, in fact, allow for unfair and arbitrary application. In other words, administrative errors on the part of the contractor could be used frivolously by consumers, forcing business owners to seek redress through the courts to settle disputes. As you know, the court system is prohibitively expensive—

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes your time.

Before we continue, I see that MPP Chris Glover has joined us. I'd just like to confirm his attendance.

MPP Glover, can you please confirm that it is you and that you are present?

Mr. Chris Glover: Hi. It's Chris Glover, the MPP for Spadina–Fort York, and I am present.

The Chair (Ms. Goldie Ghamari): Can you please confirm where in Ontario you are joining us from?

Mr. Chris Glover: I'm joining us from Toronto.

And to the first speaker, I want to apologize for being late. I was having some technical difficulties getting in, but I'll look for your written deputation.

The Chair (Ms. Goldie Ghamari): Thank you very much.

We'll now continue with our third presenter, Sid Cohen. Please state your name for the record, and then you may begin. You have seven minutes.

Mr. Sid Cohen: My name is Sid Cohen, and I live in Niagara Falls. This morning, I would like to share with you my own thoughts and experiences with Tarion.

In October 2013, six and a half years ago, my wife and I decided to pick up roots and relocate from Richmond Hill, north of Toronto, to Niagara Falls to purchase a new

home. This would be my third new home; the last purchase was in 1992. So I was aware of Tarion and even vividly remember its predecessor, HUDAC, which was done away with for many of the same problems that Tarion has today. It would be my wife's first new home. It was to be her dream of a fresh start as we began our retirement years.

After driving down to the Niagara area numerous times, I realized that I had never heard of many of the builders. I was not overly concerned because I knew I would have the mandatory Tarion warranty, which, in theory, would protect us from unscrupulous builders. I knew that most problems, if any, would surface in the first year, so it was not a huge issue.

We finally found a house that suited our needs. The next day, a friend told me that Tarion tracked builder performance, so I contacted Tarion to inquire. They confirmed where to find it and told me that their builder directory is a very valuable tool when researching builders. I remember asking her how accurate it was and how often it was updated, and I was told that it was updated quarterly, so it was current. I then did my due diligence and researched this particular builder using the Tarion directory, and it showed they had a perfect record. A few days later, I was comfortable, and we signed our purchase agreements. We closed our house in September 2014.

Needless to say, I'm here this morning because this new home experience was anything but a dream. It has become an emotional nightmare three years later.

I followed all the Tarion guidelines, filling out all their necessary forms. I actually found the administrative part of Tarion works quite well. On my year 1 warranty form, I documented about 150 legitimate defects. When it was clear that the builder was not going to repair all the items properly, I filed for conciliation with Tarion.

In March 2016—this would be my first person contact with Tarion. The Tarion rep was very courteous, but after she introduced herself, she then informed me that I was not allowed to record the inspection, and if I did, she would have to leave. Why? Was there something to hide? Did she not know that, by law, I had the right, if I chose, to record any conversation, as long as I was one of the parties?

0920

It was then that I suspected something was not right, so I made sure from that point on, with each subsequent Tarion inspection—and there were many—to take meticulous, copious and contemporary notes, should I ever need proof. As we began the inspection, another issue was made very clear. It was obvious that she had no construction experience. As the inspection continued, it became apparent that she was only capable of ruling on aesthetic items.

I had one defect where my roof leaked five different times, only when the snow would melt. Without climbing a ladder to inspect it and after telling me she was not allowed to climb, she immediately blamed it on ice damming. That's an act of God, and therefore not warranted. Then the builder agreed. I tried to explain to her that an act of God is a rare event, not a repeated one

where I can tell you the moment the leak will start and stop. Two months later, I finally climbed a ladder myself to inspect the area and found a gaping two-foot hole into the house where a piece of flashing was never installed.

And there lies root cause number one: The Tarion reps and their first-level managers do not have any construction experience or knowledge, and according to an online Tarion job application, it's not a prerequisite—but dispute resolution is an asset. If home inspectors in Ontario now need to be licensed, why would Tarion inspectors not also have to fall under these guidelines?

I've come to learn first-hand that the builder directory is a sham, after cashing numerous settlement cheques for over \$10,000, some covering building code violations. The builder record still shows a perfect record. I won my conciliation; yet to this day, it does not show up anywhere. The most recent directory as of March 2020 still shows my builder has a pristine, perfect record. How is that possible? When I checked the directory in October 2017, my builder showed a claim of \$3,700, which wasn't mine, and then the next builder directory, I found it was made to disappear and he got back to a perfect record. That's impossible, unless there's something else at play here.

All I was hearing from the builder and Tarion was excuse after excuse. I was also getting the feeling that they were a little bit too cozy, but I had no proof. Last October, I saw a CTV News story on the recently released Auditor General's scathing report on Tarion. It was at that point it all became clear, especially when it mentioned that senior executives were profiting from minimizing claims. Shortly after this, I made contact for the first time with Dr. Karen Somerville of CPBH and Barbara Captijn, both enormous help in showing me that I was not alone and giving me my sanity back. I want to thank them both.

I have had five expert Tarion consultants in my house at different times, one including Michael Lio, former board member of Tarion. All verified that there were numerous building code violations, but to this day, none of them are repaired because Tarion made them go away. How did my claim disappear? The Tarion rep told me at my final inspection that she had spent too much time in my house: "If I have to go to my manager to get you \$1,000 for each defect, I need this to go away," and she made it all go away using nonsensical excuses. For me now to have to waste my time to fight my case at the tribunal—but we'll leave that for another time.

The Chair (Ms. Goldie Ghamari): Mr. Cohen, you have one minute left.

Mr. Sid Cohen: Today, I still have 20 outstanding defects, many of which are building code violations that have already been proved and documented by Tarion contractors themselves. Tarion is supposed to be the entity to backstop the builder's warranty in situations like this. I naively thought Tarion, with their construction experience, would advocate for me, but it appeared to be the reverse, which made me wonder if there was something more to this story.

Unless any of you in this room have ever experienced Tarion first-hand or have construction knowledge, you

cannot be expected to know how to fix this. I do. Thank you.

Oh, I will add, the builder warranty was supposed to protect from shoddy material and workmanship. The Tarion warranty was supposed to protect the homeowner from the shoddy builder. Government oversight was supposed to protect the homeowner from shoddy Tarion.

Thank you. I'm done.

The Chair (Ms. Goldie Ghamari): Thank you very much, Mr. Cohen, for your presentation. At this point, we're going to turn to our questions from the committee. It will be in split rounds, as we're all aware. This round will start with the official opposition for eight minutes. Who would like to—oh. I've already confirmed MPP Glover. Who would like to begin? MPP Rakocevic, you have the floor.

Mr. Tom Rakocevic: Good morning, everyone. My first set of questions is to Mr. Vaccaro. Thank you for being here.

What would you have to say to consumers who say that there is a lack of consumer protection on the board of Tarion? You talked about the importance of having builders there, but we hear constant criticisms about builder control of the Tarion board. What would you have to say to that?

Mr. Joe Vaccaro: Thank you for the question. I would go back to the principle that we see when it comes back to other regulatory boards. Like I said, the college of teachers has teachers on their boards. The law society has lawyers on their boards. That's a principle where the regulated professional serves on the board to provide their expertise.

I would also say that it's important to appreciate that there are limits to any board involvement. The board is not [*inaudible*] involved with operational decisions, and there are legislative guidelines by which that happens. I think it's important to understand that principle about how a regulator functions and how that board functions and the representation on that board. That should be understood. I would also say that that's a principle you'll find in all the other regulatory structures.

On the issue of consumer protection on the board, the government does have the ability to appoint people on that board to serve that purpose, along with the public appointments process. There's a balance required on these boards. We see that in other regulatory structures, and that's the model that we follow.

Mr. Tom Rakocevic: Thank you. But by your own definition about teachers being on the teachers' board etc. and all of the things that you said, there appears to be no consumer protection or home purchaser representation on the boards of Tarion or HCRA or whatnot that would satisfy consumer protection, so then the board, by your own definition, fails.

Mr. Joe Vaccaro: Well, I would suggest that if you look at the composition of the board—as I understand it now, there are four government appointments and four public appointments. In those appointments, there's the ability to find representation, to share those voices. I would say that's how that structure works, no different

than the college of teachers, no different than the college of nurses, that have public appointments to provide client or consumer appointments to that board structure.

Mr. Tom Rakocevic: I understand. Thank you.

We heard about the builder registry, and you talked about the importance of getting licensed. Why do you think it is that Tarion is not providing information about claims that are being made on their website? Why do we continue to hear over and over from homeowners that their own issues are not being reported on the Tarion website? Do you believe the builder registry is working as-is now?

Mr. Joe Vaccaro: I think the challenge with the builder registry is that everyone is looking at the registry to provide different pieces of information. There needs to be an understanding that the registry, when it comes to the issue of a chargeable claim—there are exemptions built into that process, as outlined by a public bulletin. That is how that functions. I think it's important to understand, as I said, how the home building system works and all the provisions, government regulations especially, that work with that.

Chargeability and how it gets registered on the builder directory needs improvement, no doubt about that. That's part of this discussion. But it also needs to have an understanding that it's part of working your way through that process. Understanding the exemption piece to that is part of understanding why something gets registered or does not get registered. It's really the expertise of Tarion to make those determinations.

Mr. Tom Rakocevic: So you agree that it needs improvement.

Mr. Joe Vaccaro: Absolutely. The whole point of this process is improvements to the entire system. That's whole point of this process, and that's—

Mr. Tom Rakocevic: We heard from the Auditor General—you had said that licensing is very important. But by the Auditor General's own report, she said that bad builders were continuing to get licences. What do you have to say to that?

Mr. Joe Vaccaro: Well, there's a process to determine exactly how you refute or reject licences. It's no different than if you're taking a licence away from a teacher or an engineer. There's a process you need to follow. Tarion has the ability to revoke licences. It's part of their current mandate. In the new structure, that will be in place as well. What we will be looking for as representatives from the home building side is a fair process, understanding what that involves, understanding the evidence required. That's the point of a process, and that's the point of fairness in the process.

Listen, as members of this association, our members want to ensure that their professional reputation as an industry is held. Bad builders with a bad record who fail that test should have their licences revoked, absolutely.

Mr. Tom Rakocevic: Okay. Good.

Another thing that the AG painted a picture of—and this is something that I found very dubious—a lot of the claims end up on Tarion though the actual home builder should be covering the warranty. It ends up on Tarion, and

then Tarion should be able to recoup the costs from home builders themselves, and yet a fraction of the costs owed to Tarion by home builders don't make it back. So in effect, what you have in the system is that when a home builder doesn't provide a product that meets the standards they go through when someone purchases it, they then fight with the home builder and the home builder wipes their hands of it. Tarion takes forever to respond, and in the event that they actually do pay back, they don't even get to recoup the costs. That means this is really subsidizing bad construction. What do you have to say to that?

0930

Mr. Joe Vaccaro: Well, I would start with understanding, as I held out in my deputation, the process to build a home and all of the parts involved, the approvals and inspections involved, number one. I would also say that part of understanding a claim and the chargeability of a claim and the repair of a claim is the fact that a builder needs the opportunity to determine if it is a warrantable claim and provide that service.

There's a whole bunch of reasons why that does not happen sometimes. Some of the time, it's a question of the materials, sometimes it's a question of timing, and sometimes the best way of moving forward is to cash-settle and resolve the issues so that the consumer can be dealt with in that way. Then the question becomes, "Okay, well, how do you register that against the builder?" There's a process to that. Many builders want to be able to satisfy their obligations. They work towards that.

Your question about subsidizing I think needs to be understood in a bigger way, which is to understand that when Tarion says, "Mr. Builder, Mrs. Builder, this is a warrantable item. You need to repair it," the builder then has the opportunity to say, "Okay. I want to repair it. Do I have access to the home anymore, yes or no?" If it's a decision that we're going to allow someone else to go in and repair it, "Okay. What's the cost recovery on that? What does that actually cost? How do we make sense of the charge against me?"

Mr. Tom Rakocevic: They're still not—

Mr. Joe Vaccaro: I know it's easy—sorry. Go ahead.

Mr. Tom Rakocevic: The issue here is that regardless of everything you're saying, in these cases, only a fraction of the money is coming back. So in these cases, the builder will go out there and they'll build, let's say, a substandard home. Tarion, then, in the event that they actually pay—and we're hearing that's not often the case, and when they do—

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Tom Rakocevic: —it takes a long time for them to actually get around to paying. The builder, then, is able to walk away without any sort of penalty. They get their licence reissued and it doesn't even appear on the builder registry. How is this consumer protection? How is this providing information to consumers and prospective new home purchasers?

Mr. Joe Vaccaro: Well, I would say in respect back to you that the point of the improvements put forward is to

provide some clarity around these pieces. From a builder perspective, I can tell you that our members want that clarity as well.

Small builders in small communities, their reputations mean everything to them. They put their names on their family businesses. They are part of that community. And sometimes they are equally frustrated by Tarion's decision-making, which doesn't make sense and leaves them on the outside of a conversation between the consumer and Tarion.

The improvements put forward here are meant to improve confidence in the new home buying system. They are improvements that are required and the government's moving forward on them. That's our approach on this. Let's make the improvements required so consumers have more confidence in the system.

Mr. Tom Rakocevic: Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes this round of questioning, right on time.

We'll now turn to the government side for eight minutes of questions. Who would like to begin? MPP Bailey.

Mr. Robert Bailey: Yes, thank you very much for the presentations today from all of the presenters. I'd like to go to the HVAC community who are on there, Mr. Martin Luymes and Dorothy McCabe.

A couple of questions I had for the HVAC business: How do you feel, if you do agree, the proposed amendments to consumer protection would impact companies like yourselves that you represent in the heating, ventilation, air conditioning and refrigeration industries? Could you explain in a few minutes how you see that improving your industry?

Mr. Martin Luymes: I guess I'll start. Obviously, there's an interest in protecting consumers, and our members have been very supportive of revamping language in direct contracts, being contracts that are signed, agreed upon in the customer's home as opposed to a retail place of business. The vast majority of contracts in the retrofit sector are in fact concluded in the home so they're in the category of direct contracts. There was an understanding that the language around those contracts needed to be revised somewhat to provide some protection. We've been very supportive of those changes.

The concerns we have now are that with the addition of administrative penalties, which gives teeth to some of those requirements, we need to look very carefully at the contract language and ensure that the various requirements can reasonably be met, so that we don't create a situation where administrative penalties can be used punitively either by consumers or potentially even by the government to identify companies—because they didn't include, as in the example I gave, a specific date of installation, and that might be replicated over a hundred contracts, that could rack up very substantial fines, again, for a business that maybe has not in any way really stepped outside of reasonable behaviour in terms of addressing and satisfying their customers' needs. That's what we're focused on now. It really is the minutiae of making sure that the

requirements are clear, understood by the industry, and fair and manageable, and then I'd say our industry is quite happy to proceed.

One thing I will add, though, is that the original intent of all of these different regulatory amendments that have been introduced over the last couple of years was to get rid of door-to-door vendors, disreputable companies that were using tactics to sell products of our industry largely, but also water treatment products and various others. They represented themselves as legitimate HVAC contractors when, in fact, they were really sales companies just trying to build up sales, and they used a lot of very dubious tactics. As I mentioned earlier, none of those companies are members of HRAI and they're not really welcomed in the industry.

I guess I would question whether or not all of the amendments to the direct contract language that have been introduced over the last few years have really, in fact, addressed that problem. It has subsided somewhat, but I'm not sure it's because we've changed the way direct contracts are administered in the home. It may have contributed, but I will say that our industry is very pleased to see the reduction in the number of incidents because, as I said at the very beginning, those practices were a poor reflection on the industry and one that 99.9% of our industry did not support. So we're happy to be done with that.

In the meantime, if there are consumer protections that can be built into direct contract language with admin penalties to back them up, we would welcome all of those. The devil is in the details, so we need to make sure that the language is something that reasonable contractors can meet.

Mr. Robert Bailey: Thank you. I'll yield the rest of my time to MPP Kramp.

The Chair (Ms. Goldie Ghamari): MPP Kramp.

Mr. Daryl Kramp: Welcome to all of our guests today. Let me first start addressing Mr. Cohen. Thank you very much for your testimony today. Quite frankly, it is as a result of a significant amount of testimony, similar to yours, that we have heard countless challenges and problems, recognizing fully that the system that was in place with Tarion was not working effectively to the benefit of consumers. I can assure you, sir, that your testimony and many, many others like yours are not in vain.

That is why we are trying to fix this serious, serious problem by changing the Consumer Protection Act. Might I say it, we have many, many ways to go about this. Of course, as I've mentioned in previous conversations, we have the legislation itself, we have the rules and regulations that actually put some teeth into the matter, and so your thoughts are certainly, first and foremost, going into that.

But I would like to ask a question of Mr. Luymes right now. The concern that a lot of the public has had with regard to just a very few unscrupulous operators with the tied challenge of service and sales, when they're trying to be able to double-barrel a service call by pressuring on a sales call at that time: Could you comment on that, sir?

Mr. Martin Luymes: I guess there's a fine line between addressing a customer's need—and, obviously, the customer always has the right to refuse a transaction. But frankly, people in our industry and technicians are taught, when they're servicing a furnace and it's a 20-year-old furnace, or a 20-year-old water heater that's on its last legs—yes, they should identify that there's an opportunity to replace that piece of equipment. That's normal practice, and I think it serves the people of Ontario very well.

Obviously, there's always an opportunity also to talk about, "Your home is kind of stuffy. Maybe you could use an HRV. Maybe you could benefit from an air filtration device. Maybe you're suffering dryness in the winter and a humidifier would be helpful." There are always opportunities to improve the indoor air quality in a home, and we actually encourage our contractor members to—you can call it "upselling," if you like, but it's really about identifying good solutions for improving comfort and indoor air quality in people's homes. And, yes, that's often achieved through a routine service call, but of course the customer always has the right to refuse any of those options.

Mr. Daryl Kramp: Great. Thank you very much for that, because I think that clarification needed to be there.

The Chair (Ms. Goldie Ghamari): One minute left.
0940

Mr. Daryl Kramp: Very, very quickly then—I'd like to have a whole lot more time today, but we are limited.

Mr. Vaccaro, this is a significant change moving forward, a totally different focus and attention—the build—and the membership and the responsibilities going forward under Tarion are going to dramatically change.

Is there anything else that could or should be added to this bill that we don't have in the bill now, that might even be beneficial—perhaps something this committee has not entertained before and/or should consider as a potential amendment at some point?

Mr. Joe Vaccaro: We're still looking for clarity on the issue of illegally built homes—individuals who claim they're building the home for themselves and then sell it to someone two or three years down the road. We see that in communities across Ontario. Someone starts home construction, and before the home is even finished, there's a for-sale sign. Our concern is that that consumer who's buying a home thinking it's new—

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes this round of questions.

We'll now turn to the independent Green Party member. MPP Mike Schreiner.

Mr. Mike Schreiner: I want to thank all three presenters for coming in today.

I'm not going to direct any questions to HRAI, but I just wanted to say hi and thank you for all the good work that you do and for being here today.

The story that Mr. Cohen told this morning is a story that we've heard over and over again over the last two days. Given the fact that Bill 159 is designed to restore consumer confidence—from what I heard from Mr. Cohen

and many others, this bill isn't going to restore consumer confidence.

Mr. Vaccaro, you said that it's in the interest of home builders to restore consumer confidence. Given the fact that we've had so many consumers say it's not going to do that, do you feel like having this bill in its current state is actually going to undermine consumer confidence, which then has negative implications for home builders?

Mr. Joe Vaccaro: Thank you for the question. As I stated, our view is that there's an opportunity here to build consumer confidence, to make improvements.

Overwhelmingly, the concern has been raised around, how can you have a regulator and a warranty provider housed in the same place? That has been a concern raised for many, many years. So the split put forward here, arisen by the previous government and now confirmed by this government, really moves the issue forward—to create a single regulatory piece that licenses builders and can focus on the licensing piece.

On the warranty side, let's be clear: With a warranty administrator, it's all about conflict. That's the reality. No one turns to a warranty administrator, in any environment, without a point of conflict. So the question is: How does that new warranty administrator build credibility when they make decisions either in favour of the consumer or in favour of the builder? What is the credibility that needs to be done? What are the documents that need to be produced? What's the public engagement? What's the information that needs to be shared? That's the key to this. At the core of it, let's remember, it is a builder's warranty legislated by the government, administered by a third party, on a product that is built and validated by a process that involves building officials and other government pieces. So it's complicated.

To build credibility, I think, the key is going to be—the split has been decided; so be it. The new regulator needs to be transparent about how they create a licensing regime, the powers they have to determine if you are worthy of a licence or not. That's what our members want to understand.

It's really important that the warranty administrator has documents that are publicly accessible, is able to speak to consumers and provide them that information. You have to get their shared point of understanding.

Homes are not perfect creations. There are going to be points of conflict. The question is, how do you work through those conflicts? That's how you rebuild confidence.

I'm going to say this again: The experiences that the consumers are sharing are valid. They're important to improve the system. I don't want to take that away from them.

From a structure and framework standpoint, moving in this direction does provide an opportunity for improvement, and hopefully, it will build that confidence.

Mr. Mike Schreiner: Mr. Cohen has pointed out what many others have pointed out: that the directory is incomplete—I think it would be polite to say—in terms of the information it provides.

Do you think it would help building inspectors if builders who have had warranty claims against them would be shared with building inspectors so they can better regulate at the local level?

Mr. Joe Vaccaro: I think it's important to understand that building officials have to work through the Ontario building code process. A warranty claim that deals with the issue of fit and finish of baseboards or something doesn't really have a direct impact on their legislated abilities or their responsibilities. That's just the reality.

On the issue of building code infractions—this becomes one of the issues that needs more discussion. Compliance with the building code is first dealt with through the building official. Then, if something is identified as a deficiency, engineers get involved and second opinions are provided to say, "Okay, it wasn't built specifically as outlined or prescribed in the building code, but does this construction comply with the building code? Is the repair going to satisfy compliance with the building code?" It becomes complicated.

Sharing that information with municipal building officials—again, what are we sharing with them? Is it a building-code-related item or is it fit and finish, which, again, is outside their purview? It's not what they do. It's not what the system requires them to do. It's really understanding what information is valuable to them. If that helps build consumer confidence, then there should be further discussion.

For builders in many small communities, building officials know them well because they're working with them on a daily basis. That's just a reality of how they do their work.

Mr. Mike Schreiner: Well, I would argue that more transparency would begin to restore consumer confidence.

I do want to ask you, though, could you see why a number of consumers would be worried about a conflict of interest, given how many builders are on the Tarion board?

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Mike Schreiner: While I recognize the importance of having builder input, could that input be better provided through an advisory board, rather than actually being on the board of directors?

Mr. Joe Vaccaro: I would say again that regulatory models have the regulated industry on their boards: teachers, nurses, lawyers, doctors. That is a reality. Home builders are licensed. They are professionals. They should serve on the board, as we've seen with other regulatory bodies, no different than manufacturers. The question is the right balance. There have already been changes made to that board; it's now a board of four, four and four.

When it comes to the new regulatory board, again, the regulated industry should be represented on that board. That's the principle by which all the other regulatory authorities work. Why would it be any different? I would just put that in front of you to consider as a legislator, the principle that runs through all of these agencies.

Mr. Mike Schreiner: And then my final question would be, could you see any changes to this bill that would

address the concerns that so many consumers have brought up—

The Chair (Ms. Goldie Ghamari): My apologies, MPP Schreiner. Your time is up.

Mr. Mike Schreiner: Okay. Thank you, Chair.

The Chair (Ms. Goldie Ghamari): My apologies. We'll now turn to the official opposition. MPP Stevens, you may begin. You have eight minutes.

Mrs. Jennifer (Jennie) Stevens: I want to welcome all three of the presenters today and thank you for your presentations. I'm going to start off asking Mr. Cohen some questions in regard to his valuable story that he told us—actually, it's not a story; it is a complete personal situation that you were put into.

I just want to start off by asking you, do you think that Bill 159 goes nearly far enough to address the urgent issues facing new home buyers struggling with the construction deficiencies that you quite explained this morning in great detail? Do you think that the board composition, as we've heard from other presenters, is sufficient enough, or do you think that there should be a different composition of the board?

Mr. Sid Cohen: Bill 159 absolutely doesn't do the job. My question also is, why are there no consumer advocates on the board? More importantly, for a company that only has 230 employees, why is there a need for so many board members, if any? It's a simple thing. The warranty is that the home is free from defects for one year or two years. It's simple. Even if it's a \$1 defect, a \$2 defect, it should be simple: Just fix it.

Mrs. Jennifer (Jennie) Stevens: Great. Bill 159 says it's respecting consumer protection. Do you feel—and I'm just going to ask you this—that it needs to be stronger to protect consumer protection more so than the public interest?

Mr. Sid Cohen: Yes, and I also say that, because the Tarion issue is so immense, I don't think it should be bundled with all the other consumer protection issues like concerts and whatever. I think Bill 169 should just be a stand-alone Tarion issue, and that is discussed later, and Bill 159 can pass with just the other issues, because right now it's being held hostage because of the Tarion discussions.

0950

Mrs. Jennifer (Jennie) Stevens: Great. Thank you, Mr. Cohen. One other thing: We listened yesterday to many other deputants who have come through and mentioned their nightmares—actual nightmares—of what they'd gone through with their experience buying a new home, with mould in the basement and different other deficiencies. Now the government has said that they are going to listen and that they want to get this bill right, and I hope they do. But do you support this bill without the amendments that Her Majesty's official opposition are putting forward? Do you support this bill?

Mr. Sid Cohen: Were you referring to Bill 159?

Mrs. Jennifer (Jennie) Stevens: Yes.

Mr. Sid Cohen: Oh, absolutely not, and I see no hope. With everything I'm hearing yesterday and today, it's all

nonsense that's being spoken. It's a very straightforward fix that would not cost any money at all to fix and would solve everything, and I'll go into that at another time.

Mrs. Jennifer (Jennie) Stevens: Okay. We'll read your written submissions. Thank you, Mr. Cohen, for coming.

Mr. Sid Cohen: Thank you.

Mrs. Jennifer (Jennie) Stevens: I'm going to share my time with MPP Rakocevic.

The Chair (Ms. Goldie Ghamari): MPP Rakocevic? You have four and a half minutes.

Mr. Tom Rakocevic: I'm going to start with a very, very quick question to either Mr. Luymes or Ms. McCabe. I've heard from new home purchasers, as well as HVAC professionals, about issues that arise during new home construction when HVAC systems are turned on, drywall dust getting into HVAC systems and whatnot that might create warranty issues later. Would you support any moves that would say that if HVAC systems go in, they should be basically really used by the new home purchaser and not really during the period of construction? Would you support something like that?

Mr. Martin Luymes: Thanks for the question. Let's just say that's kind of a long-standing issue. We've tried to work with home builders, with the regulators—that being the Technical Standards and Safety Authority and the gas utility, Enbridge now, across the province—on protocols that would allow the safe use of a furnace prior to occupancy by the homeowner. We understand that there are some benefits to being permitted to use that furnace to warm the space, to do the final aspects of construction, flooring—various things that require a little bit of heat in the building. We're comfortable with some of that.

This is really a matter for our manufacturer members and what allows them to honour their warranties. They have said they are comfortable with some version of using furnaces during the latter stages of construction, but where that line is is a question of some debate still, and I'm going to say that it has not been fully resolved. We still have some confusion in the industry about what's appropriate, and we are committed to working with home builders, the regulators and even the standards development organization. The CSA is working on a binational furnace standard that may prohibit use of furnaces during construction. That's something that manufacturers may weigh in on—

Mr. Tom Rakocevic: Thank you very much. So it is worth exploring—

Mr. Martin Luymes: Yes.

Mr. Tom Rakocevic: —and I really appreciate your deputation and your expertise. Thank you so much.

I'd like to go back to Mr. Vaccaro. I acknowledge that these are difficult questions that are being asked, and I actually really appreciate the opportunity to have someone from the home builders' association here to discuss this. I wish we had more time on it. I want to simply say that what I've heard in this round of committee hearings and before—I would probably want to use the word for these scenarios as I'm hearing them, "Kafkaesque," because

some of them are absolutely patently absurd, to hear what people are going through.

We talk about consumer protection, we talk about the idea of consumer confidence, but you've conceded to tight ties with Tarion. In fact, Tarion spent hundreds of thousands of dollars sponsoring OHBA dinners. The relationship between Tarion and the OHBA is cellphones. It's phone calls. It's simple. But we hear from people trying to reach Tarion or even deal with their own home builders, and they get a different situation. I'd like to ask: Do you feel that this government has heard the OHBA? Do you feel that this government responds to your phone calls and provides you the necessary access for input on this bill and on other issues?

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Joe Vaccaro: What I would say is that as the advocacy voice for the home building association, we follow all the rules and protocols in place. We engage in the public policy format. Tarion is the regulator for our industry members, so we have our own internal committee that meets to discuss issues rising up specific to their concerns. It's our job at OHBA to bring those issues forward to our regulator, whether that's Tarion or the ministry or government officials or MPPs.

We have members who are active in their communities, and so we are engaged in many different ways of sharing and speaking to government representatives across the board.

Mr. Tom Rakocevic: I just want to point out—

Mr. Joe Vaccaro: With this bill specifically, we have raised additional issues that we feel require clarity and we've really focused on the idea that the move forward is about dealing with the split. The move forward is also about ensuring that the front-facing pieces of these organizations, whether it's the builders or the consumers, speak to those groups and we can get to a shared understanding of what is a warrantable item.

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes the round of questioning.

My apologies, Mr. Cohen. If you don't have an opportunity to follow up in the public hearings, there is an opportunity to follow up with further written submissions, and I invite you to participate in that process.

At this point, we'll now turn to the government for the final round of questions for eight minutes. MPP Harris?

Mr. Mike Harris: Thank you to everybody who is here participating today. I just want to say a hello to Dorothy, even though I don't necessarily have a question for you. I assume you're back home in Waterloo. It's good to see you.

My question is for Mr. Vaccaro. We've heard a lot of talk about the board and the duties of the board and how the board is formed, and I think that's been one of the bones of contention with a lot of the I guess we could call them consumer advocates that we've had here presenting.

I was wondering if maybe you could explain to me the role of, say, a board of directors, especially of a regulatory body like Tarion or any of the other organizations you've mentioned—there are lots of them around the province—

the duties that they have versus what the executive branch of that organization does in their day-to-day operations and how there is a fair amount of separation between the two.

Mr. Joe Vaccaro: Sure, I'm happy to respond to that. Like all other regulators, you have a board and on that board, you have individuals who come onto that board with their expertise. In the case of Tarion or any other regulatory board, there needs to be a clear distinction made through the legislative process and then, of course, through the procedures of the board of good governance to ensure that the operational decisions—the decisions about how claims are processed—are left to be executed by senior management in the operation.

The board is there to provide guidance. The board is there to provide structure in terms of the broader policy outlines. What does that mean? It means they don't dive into individual cases. It means that at the board level, and on any board that serves—we have a board at OHBA—if there is a matter that could be perceived as a matter of conflict, they excuse themselves from that conversation. That's what it means. I think it's really important to understand that from an operational standpoint.

There are improvements that need to happen across the board. We've had that discussion and we see that. But board composition is not shorthand to say, "That's why things are wrong." Board composition and the structure of the board is part of government oversight. It's part of the legislative structure.

Improvements are going to come through the system on both boards, but we can never forget the fundamental principal: Regulatory bodies always have the regulated professionals serving on those boards. You see that across all these different functions. Now the question is, what additional pieces do you put around that to ensure that board governance does not bleed into the operation of the corporation? That's the distinction you need to make.

Mr. Mike Harris: Thank you.

The Chair (Ms. Goldie Ghamari): Further questions? MPP Sabawy?

Mr. Sheref Sabawy: Thanks to the presenters. The Ontario Home Builders' Association submission was very informative, and I think it has raised many legit points.

I'm not here to defend Tarion. I had one incident with them and I don't think it was what I expected, so I'm not here to defend them. I'm talking about Bill 159 and I can see in the bill two major points to my concern: (1) Does it give us a balance between the home builders and the association, like the number of home builders on the board, the balance of stakeholders; and (2) the split between the building codes and the regulatory part and the home warranty program.

1000

From my opinion, Bill 159 does that to a great extent. The main two points I think got served was Bill 159—not to discuss later on what the ministry or the minister is intending to do, like more consultation about what the warranty program should look like and how we can

enforce different aspects of that to reclaim consumers' trust into this part.

Mr. Vaccaro, from your point of view, talking about the two main points I talked about, which is the balance on the board and splitting between the regulatory part and the home warranty—in your opinion, does Bill 159 serve those two points?

Mr. Joe Vaccaro: Bill 159, yes: It's a clear distinction between the regulatory functions and the warranty functions. The regulatory functions, the issue of licensing of a builder—it will certainly include some sort of builder code of ethics, which is important for any regulator to have as a cornerstone, and it will do the work to ensure that there's technical expertise of the builder, that they understand their contractual obligations. So that becomes a piece by itself.

Then the other piece now becomes the warranty provider or the warranty administrator, I should say, reinforcing the fact that the warranties are builder warranties legislated by the government of Ontario. That's a good thing for consumers to know.

Now, the functionality of that warranty, the interaction between the warranty services and the consumer, will be the next cornerstone; because really, that warranty administrator needs to have the credibility to make decisions, needs to have the credibility of the process to make decisions, needs to make sure that the process by which consumers can raise concerns and make claims follows through, and that claims that are accepted as being warrantable are dealt with and claims that are denied are explained to the consumer.

Consumers will not be satisfied when claims are denied. That's just the reality. But the consumer should have confidence that the decision to refuse their claim comes with some sort of logic, expertise and transparency—and the decisions need to be made quickly. I can tell from my interactions with consumers that a quick decision is important. They don't want to wait 90 days, 120 days, a year for a decision. That's important as well.

I think the split deals with these two parts, separates them. Now it's really about the front-facing motion, the policies and procedures, the communications and information. We live in an area of transparency, we live in an area where, as I say jokingly to my wife—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Joe Vaccaro: It's important that consumers who are engaged in this process have a credible source to go to and get their information, and a response to their concerns.

Builders need that as well. I think it's really important for consumers to appreciate that builders want a credible warranty administrator, because that should provide the confidence that your claim has been dealt with and responded to: "Yes, it's a claim that needs to be dealt with." "No, it's a claim that's been denied," and then how do we move forward. Builders need that as well.

Mr. Sheref Sabawy: Two questions, quickly, because I know the time is running out. In general, as a summary from your opinion, Bill 159 serves those two points: Yes or no?

Mr. Joe Vaccaro: Yes. The splitting of the regulator and the warranty part serves that purpose, yes.

Mr. Sheref Sabawy: Thank you. The second question, which is not a question, just a piece of information: Like any other profession—again, I'm taking the chance, I'm here—to give homeowners the power, because in any profession there is—

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes our time.

Mr. Joe Vaccaro: Thank you.

The Chair (Ms. Goldie Ghamari): I'd like to thank the presenters for their very informative presentations today. At this point, you're released and you may step down.

At this point, we will be recessing until 1 p.m., at which point we will continue. I want to thank everyone. We'll see you all at 1 p.m. Thank you.

The committee recessed from 1005 to 1300.

The Chair (Ms. Goldie Ghamari): Good afternoon, everyone. The Standing Committee on General Government will now resume for the afternoon session. This is with respect to public hearings on Bill 159.

At this point, we do have a new MPP who has joined us on Zoom. I just have to confirm him before we can proceed. MPP Parsa, can you confirm that you are MPP Michael Parsa and that you are present.

Mr. Michael Parsa: I am.

The Chair (Ms. Goldie Ghamari): Thank you. And where are in Ontario are you located?

Mr. Michael Parsa: I'm in Toronto.

The Chair (Ms. Goldie Ghamari): Thank you very much.

At this point, for the afternoon session, we have one presenter. The presenter will have seven minutes to make his presentation, followed by a round of questioning. Because we just have the one presenter, I wanted to know if I could get unanimous consent from the committee to just do one round of questions as opposed to two. I'll leave it up to the committee members to decide—similar to what we did yesterday when we just had the one presenter. I'll leave it up to you. If you want to do—

Interjection.

The Chair (Ms. Goldie Ghamari): Okay. So if you want to concede your second round, that's fine. If the official opposition wishes to do two rounds of questioning, that's okay. All right. That's fine.

MR. DAVID ROBERTS

The Chair (Ms. Goldie Ghamari): At this point, I'd like to call upon Mr. David Roberts. Please state your name for the record and then you may begin. You will have seven minutes for your presentation. Thank you.

Mr. David Roberts: David Roberts. I welcome this opportunity to present again to the committee. From my experience of 40 years in law enforcement, I will bring up much of what I discussed before and a few new things.

I submit to the committee that the regulatory powers are not being separated as indicated by the government. This

duplication of power can be seen in Part III, Licensing, in the New Home Construction Licensing Act, and then your registration of vendors and builders in the Ontario New Home Warranties Plan Act. Both acts reference requirements to be licensed as a builder or vendor by the respective registrars. The licensing authority is responsible for the licensing of vendor-builders, but must rely on the warranty provider for the licensee's financial information. The warranty provider can dictate what restrictions can be placed on a builder's or vendor's licence.

Both acts deem it an offence to act as a builder or vendor without being licensed: section 71 of the New Home Construction Licensing Act, section 22(1) of the Ontario New Home Warranties Plan Act. Both acts have identical penalties. Which authority is responsible for entities acting illegally, such as enrolment of the home? Only the warranty provider requires that. Will consumers be required to read both authorities' websites? Does one authority have the power to proceed over the other on enforcement matters? Should one authority fail in its prosecution of an illegal entity, does the other authority have the ability to proceed with their own identical charges against that same defendant, which is proceeding towards double jeopardy?

What is missing from these discussions are reviews of the regulations that will be attached to each act: newly created ones under the New Home Construction Licensing Act and new ones that modify the existing ones attached to the Tarion legislation.

Regulations can and most likely will place additional onerous requirements on builders and vendors to register and maintain that registration. I use the term "registration" as it is referred to in both acts. Tarion and the Ontario Home Builders' Association have fundamentally created an exclusive club of builders and vendors. An inclusive club must be the goal. Proactively work with those wanting to enter the market and succeed. Not all builders in Ontario belong to the OHBA.

Regulations will also dictate the process that consumers must follow to file a claim. I submit that the current process is not within that broad scope of consumer protection and its mandate. You'll find this referenced in Licence Appeal Tribunal decisions and criminal prosecution cases over the years as well as by many consumers who have spoken up and come forward, lobbying the government to make changes. Will this process be allowed to continue or will a proper process of procedures be put in place?

I basically close with the following: Under the proposed structure, which authority would ultimately be responsible for the builder and vendor directory? One is supposedly responsible for licensing even though the other can dictate what conditions can be attached, as I say. The other is responsible for claims data. Will pass-through claims payments from securities that Tarion holds be allowed to continue in order to avoid publication of such? I also believe they are now doing consumer [inaudible] in a way to avoid it becoming part of the public record. This process is totally misleading. This process is setting a precedent that builders and vendors can avoid being penalized publicly for a claim.

While section 13(6) of the Ontario New Home Warranties Plan Act remains—this section allows Tarion to continue their enforcement of unregistered builders who have had claims filed against them and use the charges as a means to settle the claim without them having to pay out. Consumers who are victims of unregistered builders can be compensated better through orders of restitution, which are outlined in the new Home Construction Regulatory Authority, than a claim process that they are neither aware of or have benefited from from the beginning—and, as such, have not received any warranty information from the builder at the start.

The proposed legislation, Bill 159, does not support the consumer protection mandate the ministry should be adhering to.

The Chair (Ms. Goldie Ghamari): Thank you very much. At this point, we'll turn it over to the government for the first round of questioning. MPP Kramp, you have the floor.

Mr. Daryl Kramp: Sir, being as how you are our last witness here today, let me, on behalf of the entire committee—and I know they'll also express their gratitude for your appearance. It's tremendously important that we hear opinions. Sometimes we like them and sometimes we don't. Sometimes we agree and sometimes we don't. But I can assure you, your opinion is valid.

I don't want to put words in other committee members' mouths, but I think most committee members recognize that the situation we had wasn't working. There's no doubt about that. Tarion was extremely challenged, to say the least—and other legislation that could have some significant improvements.

For the most part, recommendations coming from Chief Justice Cunningham as well as the Auditor General have been pretty well accepted, with the exception, of course, being Tarion itself—the composition and/or direction of that.

There are two opinions: You either throw it away and put in something totally new, or you try to fix and repair it. The government, at this particular point, has taken a suggestion from the member's bill—that we believe it's salvageable, but with some major improvements. Time will tell. Of course, the improvements are in legislation, but they'll also be in the regulations coming forward. I'm not asking anybody to take a leap of faith here, particularly my opposition colleagues, but I can assure you that this government member recognizes that dramatic changes have to take place. So we will see how that goes. I just throw that out there for some serious consideration.

As to the discussion from our witness today: Sir, I take your point made with regard to conflict and duplication. The last thing we want to do is have different legislative bodies and/or different agencies competing for the same authority, because one is trampling on someone else's foot and/or the job isn't getting done. We have conflicting bureaucracies that are trying to solve the same problem. Could you give me a bit more of a specific example of that from your comments?

Mr. David Roberts: Certainly. A regulatory authority, such as the new Home Construction Regulatory Authority, is responsible for licensing a builder. They're the ones who will review, dictate whether this person gets a licence. As with all delegated authorities, they also should be responsible for those acting outside of the legislation illegally—being unregistered and not complying with the legislation. These proposed changes have allowed both of those authorities to deal with that.

The Ontario New Home Warranties Plan Act still allows for prosecutions of illegal builders or those not adhering to what they should be doing. It's very plain. It's the same penalties exactly. That stems mostly from section 13(6) of the act. Where I'm coming from is 25 years as the director of enforcement at Tarion and 40 years in law enforcement, some of that being a building inspector, a chief building official. Section 13(6) basically states that despite any agreements, you can't contract outside of the legislation, so a home built illegally is entitled to warranty coverage. That was some 40 years ago. Consumers have changed, and the industry has changed. That should be removed. Tarion should not be involved in enforcement of any proportion of illegal prosecutions. It all needs to lie with the licensing authority.

1310

As I said, people can benefit from orders of restitution, which is a very standard procedure in today's world. Somebody who has been the victim of an illegal builder, at the end of the day in the trial, can put forward that any order of restitution and financial loss can be returned to the consumer directly and wouldn't have to be returned to Tarion, as they have paid out nothing. So there is a duplication all the way through this.

Mr. Daryl Kramp: Okay, well that's fine. I have no further questions at this point.

The Chair (Ms. Goldie Ghamari): Further questions from the government? MPP Sabawy.

Mr. Sheref Sabawy: Again, I will reiterate about Bill 156 that the two main points we are discussing, or are in my interest to discuss, are the balance of the board—do you think that Bill 156 strikes a good balance in the board of Tarion to make it at least better functioning in serving homeowners? The second part of the split we are doing between Bill 156 is between the regulation and the building code enforcement, and the homeowner's warranty part.

In your opinion, do you think Bill 156 serves those two main points? Or in your opinion, what would be—to what extent?

Mr. David Roberts: I don't think it serves to make the changes properly. I've been there for 25 years. I saw the changes go forward. They went from 15 to 16 board members to get rid of the perception that the builders were in charge, but then they allowed the chairman to vote twice, and the majority of the chairmen of Tarion are builders. Going forward, the board members should be reduced and a couple of builders be appointed.

And I must point out that not all builders in this province belong to the OHBA, so you're only hearing

from those who are members of the Ontario Home Builders' Association. There are so many builders who are good, quality builders that do not belong to it and will not have a say on the board, because they're not appointed independently. They don't have a choice to get on it. You have to go through the OHBA.

I see board members who have left Tarion over the years who are now on the board of the other regulatory authority, who claims it not to be a conflict. It is certainly a perceived conflict of interest, yet the one member is one of four companies approved to deliver the training for the seven competencies. So it may say on paper, "Yes, we're going to fix it," but it's not what's happening.

Mr. Sheref Sabawy: Just to serve this specific point, in your opinion what can be done to strike that balance? In your opinion, if we can fix this—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. David Roberts: Keeping both authorities and balancing the boards is going to be difficult, extremely difficult, because many will have the same interests, many will not have it, and then you'll have the consumers going forward. To speak forward here, the best balance is to remove the warranty regulator and go to the third party, as in other provinces. Then you only have one board to fairly deal with everybody.

Mr. Sheref Sabawy: Thank you very much. I don't have any further questions.

The Chair (Ms. Goldie Ghamari): Thank you very much. If there are no further questions from the government side, we will now turn to the official opposition. MPP Rakocevic, you have eight minutes. You may begin.

Mr. Tom Rakocevic: Thank you, Mr. Roberts, for your presentation here. Your voice is a very important voice, because you formerly worked for Tarion so it's very significant because you have information that many, many others don't have.

Again, do you believe the Bill 159 that's before us, unamended, as is, will do enough to provide consumer protection for new home purchasers in this province, or do you believe it needs changing?

Mr. David Roberts: I totally believe it needs changing.

Mr. Tom Rakocevic: Okay. Good, so that's clear. And again, you have a lot of insight, because you were on the inside of Tarion as well. We, the opposition, put forth amendments to this bill. For instance, I'll give one amendment: For bad builders, builders that have been identified in the registry as having problems, deficiencies and whatnot, my amendment said, "Let's bring that to municipalities and let the inspectors at municipalities know when builders are not doing the right job." Do you believe this is a good amendment?

Mr. David Roberts: Basically, yes, it's a good amendment. A regulator—and I'm only looking at one; I won't get into the two of them—needs to be proactive. It needs to work with the builders, work with the municipalities, work with everybody, to bring everybody on board—be inclusive, not exclusive. [*Inaudible*] but eliminate the need for illegal building investigations as much as they are today, and things like that. The short version is, be proactive; come together. That was not done when I first

started with Tarion. There was a lot of exchange of information between building departments and builders, openly. That all changed going forward. Why, I'm not too sure. It needs to be proactive. This is not proactive legislation.

Mr. Tom Rakocevic: I definitely think there should be a need for proactive—and so, again, with regard to inspections and whatnot, do you believe this legislation does nothing to improve that?

Mr. David Roberts: No, not at the onset.

Mr. Tom Rakocevic: I know you were asked a question about the board composition of Tarion. Do you believe, as envisioned right now, that the board composition will enhance consumer protection? What I'm trying to get at is, whether a person is a sitting builder—are there other ways that people who sit on boards will have contact to the industry and essentially serve the exact same function and have the same interests of the industry over consumer protection?

Mr. David Roberts: This is a huge industry in Ontario, obviously—building, developing, all that. My initial reaction is, a board consisting of nine or so members selected randomly across—if they can work with a committee, a builder committee, a consumer committee, whatever, to collect, bring forward their information, and then ultimately bring the final reports from each of those groups to the board to decide on.

The one thing that everybody needs to keep in mind, as I said, is the broad scope of consumer protection—I went through so many court cases; it has been in LAT, it has been in rulings—where it's not the narrow criminal prosecution view; the broad consumer interests have to be put forward first.

Mr. Tom Rakocevic: Considering that Tarion collects funds from new home purchasers through the builder and that's where their money comes from, and that there is no consumer protection either in the past board or on what's being proposed that satisfies the people who have come to this committee in terms of what we all define as consumer protection—do you see that that's a mistake in this bill?

Mr. David Roberts: Well, it's hard to define or separate the two because a builder, and naturally—you buy a vehicle, it comes with a warranty; if you want to extend it [*inaudible*] you have to pay the extra. In the case of a car, it's included. It's there. You ultimately paid for it because you paid for the vehicle. So to go forward and say that the consumers are paying the bills so they should have a bigger say is a little bit exaggerated, to a point. It relates back to that whole consumer broad mandate. Whether they pay the bill directly—a builder could turn around and include it in the price of the house and could argue that they didn't pay it; it's in the price of the house. And he forwards an [*inaudible*] that came out of his funds and not shown on the closing cost of a home. So—

Mr. Tom Rakocevic: All right. Just because of timing—I would like your specific expertise around inspections. We heard people come to this committee and talk about situations—a gentleman was told that there was ice damming on his roof. He went up there on a ladder

after Tarion inspectors and builders went, and discovered there was a hole in his roof that had been sitting there. We have examples of all sorts of defects. We have examples of where Tarion inspectors are trained in mediation but, in many cases, not so much in being able to identify defects in homes.

Would you be able to elaborate on what is going on when things fall apart like this?

Mr. David Roberts: When I was there, Tarion never proactively inspected anything—it was just for claims situations, at the end of the day. So yes, I could see that happening. There are qualified inspectors. However, being a former chief building official myself, you don't see everything. There is no way you are going to see everything.

So again, proactively go back. It's not duplication of services. The municipality's building department is required to inspect certain items under the building code. That doesn't negate what Tarion can do. It can proactively go in at any time, do a random inspection and see how it's going and what may be missing, confer with the building department, and say, "Hey, this is what's going on. You might not have been there," and proactively eliminate a lot of this.

1320

Mr. Tom Rakocevic: Isn't it interesting that Tarion has the power to do this proactively and that they simply are choosing not to do this? Ultimately, the builder—and often they're on the hook. We've learned that. They're not even able to collect the money back from builders when the builders are deficient, anyway. Why on earth would Tarion, do you think, not want to go in proactively and ensure that what they're backstopping is being built properly?

Mr. David Roberts: I can't really answer why. There's a lot of supposition as to they didn't want the public to know what—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. David Roberts: —the builders were really like. Don't get me wrong; a lot of builders, and most in Ontario, are good, quality builders who deliver a quality product. But when the alarm bells go off or the signals come up, we need to proactively go after and look at that builder and see what's going on.

The act said "shall appoint inspectors." When I was there, it meant we're not going to because it's a duplication of services. They never looked at it as being a proactive—

Mr. Tom Rakocevic: I just want to mention this before the time is up. You mentioned that there are a large number of good builders. But without a good builder directory, what information do consumers have and what information are they lacking when they're buying a new home? That's something important.

But we'll move on to our next section for questions.

The Chair (Ms. Goldie Ghamari): Thank you very much. At this point, I'd like to call upon the independent Green Party member to begin. You have six and a half minutes.

Mr. Mike Schreiner: Thank you, Mr. Roberts, for coming in today. Your input is very valuable, especially given your history with Tarion. You mentioned that Bill 159 is not really a consumer protection bill, even though it supposedly states that it is. Do you think it's important to explicitly state in the bill that consumer protection should be Tarion's top priority?

Mr. David Roberts: Absolutely. The short version is that it's what it's all about. This is about consumer protection, not builder protection, not smoke and mirrors, not hiding the facts. It's going forward and protecting consumers so they have all the facts and all the information they need to make a good decision on where they're going to build and who they're going to get with, going forward.

Mr. Mike Schreiner: Thank you for that. What do you believe would be the most important amendment that could be made to this bill to make it more of a consumer protection bill?

Mr. David Roberts: That's difficult, because I find the whole thing to be very difficult, to divide it and to make it consumer-friendlier going forward, because of the issues with a mandatory warranty on the one side that gives you no choice. Maybe I'd just put it this way: You have a regulatory authority that is going to be responsible for consumer protection. There is no choice, and they do not have the option to increase warranty coverage without legislative changes.

You can look at what's out there as the bronze package: \$300,000 coverage, seven years; this year, that year, and five years and seven years for major structural defects. Proactively working with a third-party provider, a builder can go in there and say, "Okay, that's a goal. I want to deliver a silver package. Extend the coverage, extend the time limits; extend it to 10 years." That's the silver package, and it will cost you this much. That consumer has a choice now: "Do I want that or do I want this? I have the gold package. I have a platinum package, going forward." There are consumers out there who will spend \$2,500, \$3,000 or whatever it is over seven years or 10 years to have everything covered and walk away. The garage door doesn't open? Make a phone call and it's fixed, going forward. Then there are the ones that say, "I just want the basics. I don't want to pay."

One thing everybody forgets about here is the cost. You're going to keep the costs low. If you go to a third party for a new home and the fee goes up 25% or 30%, it's still very valid and it's still very doable and acceptable in the industry, because remember what you're getting is seven years of coverage. And the other thing is, that homeowner has that benefit. If they resell that home once or twice in two years, three years—that home they sell a couple of times, I'm going to say because of job changes or whatever—every homeowner coming in benefits from some level of that protection, going forward. So you're not just impacting the general new homeowners today; you're impacting future homeowners.

Mr. Mike Schreiner: Right, and I would even guess that having a good warranty system would benefit the good builders, too, to protect them from the bad builders.

Mr. David Roberts: I'd be curious to hear what they actually have to say about it.

Mr. Mike Schreiner: I did want to ask you, quickly, the issue of illegal builders under Tarion warranty has come up more than once. I'm curious why you think that should be than once. I'm curious why you think that should be changed.

Mr. David Roberts: It just goes to the whole regulatory authority side of it. Who is responsible? Because being illegal is against the licence, against that authority's responsibility to oversee if you have a licence or not and if you're acting outside of that legislation. That should be one and only one authority's responsibility. This is making it Tarion, too. As I said, if section 13(6) of the act is still there and if it remains there, it puts Tarion in a position to enforce illegal building with the same penalties and the same outcome as a new home construction authority.

So who's in charge? Are you going to lead to double jeopardies? That usually applies when it's under the same legislation so they can charge, but I think you're going to have a lot of courts proactively sit there and say, "Wait a minute. This is double jeopardy. You charged them here, lost the case, and now you want this agency to charge them because they have better information or whatever the case may be." Tarion looks at it as a hit to their guarantee fund because they have no securities from these builders, and they want to keep those claims down because it benefits financially on their KPIs and all that and bonuses.

Mr. Mike Schreiner: Right. How much time do I have, Chair?

The Chair (Ms. Goldie Ghamari): You have a minute and 40 seconds.

Mr. Mike Schreiner: Okay; great. There's been a lot of concern about the potential conflict of interest on the board. Do you believe there should be explicit anti-conflict-of-interest provisions in the bill to help guard against that?

Mr. David Roberts: Certainly. I have been a board member of another agency and all that kind of stuff, and a conflict of interest, whether it's a direct conflict or perceived, tilts the balance, because you're going to have the consumers just saying, "No matter what you say, I don't trust you," and then the other one's saying, "Oh, you've got to do more."

Mr. Mike Schreiner: And do you believe that the current bill still has the perception of a conflict of interest in relation to the composition of the board?

The Chair (Ms. Goldie Ghamari): One minute.

Mr. David Roberts: Certainly, it does, and the legislation does, too. It's a conflict between the two of them. To me, it shows the support to the builders and to the industry and not to the consumers.

Mr. Mike Schreiner: Right. Thank you for that.

I believe that's all the questions I have. Thank you, Chair.

The Chair (Ms. Goldie Ghamari): Okay. Thank you very much, MPP Schreiner.

At this point, we'll go back to the government. Are there any further questions? MPP Harris, you may begin.

Mr. Mike Harris: I do apologize, Mr. Roberts; I missed the tail end of your initial presentation. But I was just curious, you said you worked for Tarion before. Could you just elaborate a little bit on your role there, and also as a chief building official—was that with the municipality, obviously, I would assume?

Mr. David Roberts: Yes, prior to joining Tarion, I was the chief building official of two municipalities in Peterborough county, the plumbing inspector, the dog catcher—they were rural municipalities—and I was also the deputy clerk [*inaudible*] one in the absence of the clerk. Those municipalities have subsequently been absorbed into amalgamations in Peterborough county.

At that time, when I left there in 1993, I joined Tarion, then the Ontario New Home Warranty Program, as an investigator with construction experience, policing experience—I started my career as a police officer in Toronto back in the 1970s—and going forward. So I was responsible for eastern Ontario and the investigations on illegal building activity and all that.

Subsequently, in 2002, I became manager of the department and in 2004 became the director of enforcement until I retired in June of 2017.

Mr. Mike Harris: Okay. Thank you very much.

The Chair (Ms. Goldie Ghamari): Further questions from the government?

Mr. Mike Harris: No more questions from the government.

The Chair (Ms. Goldie Ghamari): No? Okay. Thank you very much. We'll then turn to the official opposition for eight minutes. Who would like to begin? MPP Rakocevic?

Mr. Tom Rakocevic: Mr. Roberts, are bad builders getting licences to build in Ontario?

Mr. David Roberts: Yes, to an extent they are. I always believed that if you had the securities and the financial wherefore to place the Tarion warranty, you got registered.

Mr. Tom Rakocevic: And do you believe that the builder directory accurately reflects what's happening right now, if you take a snapshot of a development?

Mr. David Roberts: No, absolutely not.

Mr. Tom Rakocevic: Sorry, no?

Mr. David Roberts: No. Absolutely not.

Mr. Tom Rakocevic: Okay. Do you believe that this legislation will in a very specific way address that and deal with that? Do you think that we will see improvement? On your hunch, in your gut, what do you think? Do you think this legislation will improve that?

Mr. David Roberts: No, the legislation won't. As I stated in my presentation, there are all the regulations that are going to get attached to this that will specifically spell out terms and conditions to get registered, and that will be increasingly onerous on builders, and then throw in the other side of the onerous process of getting a claim settled. But if we go back just to the registration process, if you look at the regulation that's in place, what are going to be the terms and conditions to get registered? Is it going to forcibly eliminate the small builder who doesn't have the wherefore and the means? He has the skills and all that,

but he needs an opportunity to prove himself under scrutiny, to get registered, build a quality product and, again, proactively work with them to get on board. This legislation and all the regulations and the ones I'm familiar with at Tarion do not do that.

1330

Mr. Tom Rakocevic: Do you think there was undue influence on Tarion's board by the building industry to really ensure that the operations of Tarion, all things being equal, tended to favour the industry versus consumer protection?

Mr. David Roberts: Personally, I believe that, that there is some influence and that there shouldn't be. You've got to remember that this legislation was put in in 1976 by the Peterson government, who said basically, "You fix it or we will," and what you got was a new home warranties program, which came from HUDAC in those days, which was all on a volunteer basis so, naturally, it was skewed to promote builders. The majority of the builders at the OHBA did it. The majority of the board is the builders. That concept has not changed since 1976. It has not had that major overhaul. Do you really want to turn around and overhaul it all, or actually come into the 21st century and bring about real consumer protection and accountability?

From experience, the builders I've dealt with over the years, as much as the local ones—even now, in this industry, generally they're good. Given an opportunity, they'll pay—you know, give them a foot and they'll take a mile, and all that kind of stuff, but they're good. They want to deliver a quality product, because at the end of the day, no matter what your builder record says, it's the word of mouth.

Mr. Tom Rakocevic: All right. So the situation, then, I think, if we summarize, is that we have an opportunity for bold change. We have heard from many people, and you already gave a presentation when we travelled the bill earlier. Some have said to go so far as to scrap this bill altogether and replace it with something else, but certainly substantial change is required. We are still going to continue to have heavy undue builder influence on Tarion and HCRA, the existing boards that govern regulations and warranties, and this government is slated to just go forward with this, saying that they may fix this stuff in regulations and we'll see. But as we're having this debate right now, people are getting keys to brand-new homes. That will continue onward, and there's immediate requirement for change.

Do you have anything to say to this government? With your experience—you are the last presenter—what do you want to say to the government about how important this legislation is and what they should do right now to help new home purchasers in this province?

Mr. David Roberts: Well, they might not want to hear it, but going forward, I would say to scrap it. It has had its day. It's not viable. It is not geared towards consumer protection at the end of the day. Come back with Justice Cunningham. Come back with them all. BC, Alberta—I worked with BC when it was being brought up. Go to a third party; have the one regulatory agency to license, put

up the building records and all that; take all the information from the ones providing; let the builders be proactive in protection over and above the mandatory minimum that is stipulated; and go forward.

As far as the board structure goes, keep it limited to everybody and allow the committees to bring their information to those representatives, but monitor and watch it. It'll be a moving change at that level, too.

Mr. Tom Rakocevic: I don't know if you've been following the committee hearings, either at this stage or the past stage, but virtually everybody who has come to speak about Tarion has taken the consumer protection side of it and has said that this bill doesn't go far enough. We have only heard from the building industry with one individual who spoke this morning, and we haven't had the opportunity in a very open way to question the rationale of the building industry and to hear their side of it.

Now, what do you think about that? Do you think that maybe it could be a little more transparent to hear the other side? Because when I hear from a lot of people on the consumer protection side, they say they have very limited access to Tarion. They often say that they don't feel heard by this government. Certainly they have been here in committee and they've made deputations, and the government seems to not be going forward with what they're suggesting. And yet, there seems to be another parallel exercise, perhaps with the industry, who seem to be getting their way. I think the OHBA is supporting this legislation. And yet, all the people who have been harmed, whose lives have been ruined and in some cases lost due to the home warranties in Ontario don't feel listened to and don't see legislation that they believe will support them.

What are your thoughts on that?

Mr. David Roberts: I think it's incumbent upon the government and this committee to hear from the rural builders, the ones outside of the big areas, the ones out there that cannot meet the requirements, the seven competencies that are required to get registered. By the way, who is still going to be responsible for that is another question.

In my investigations and my time out there—and I presented across this province to realtors, to home builders, to all kinds of them, and one of the comments I got—

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. David Roberts: —regularly was, "I can't get registered. It's too onerous. It's too difficult. It's too demanding. I have to put up big securities." Yes, I get it, you want to protect—but maybe I have to proactively work with this person to get him on board because, ultimately, everybody in the neighbourhood thinks he's a great builder and he probably does build a good-quality product.

So, yes, you need to listen to everybody—and especially the smaller builder, not just the OHBA.

Mr. Tom Rakocevic: Do you believe this government has truly listened to you and is implementing consumer protection in new home warranties in the province if they go ahead with this?

Mr. David Roberts: No, they're not.

Mr. Tom Rakocevic: Thank you very much for your time.

The Chair (Ms. Goldie Ghamari): Thank you for your presentation. At this point, you may step down.

Again, I want to thank the committee for their co-operation in helping to conduct some very productive public hearings. I appreciate everyone helping out and making sure that we can all work through whatever technical difficulties we had.

The deadline to send in a written submission will be 6 p.m. on June 24, 2020—and a reminder to all members that the deadline to file amendments to the bill with the committee Clerk is at 6 p.m. on Thursday, June 25. This is a hard deadline.

The committee is now adjourned until 10 a.m. on Monday morning, June 29, 2020. Thank you, everyone.

The committee adjourned at 1337.

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