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**Official Report
of Debates
(Hansard)**

G-28

**Journal
des débats
(Hansard)**

G-28

**Standing Committee on
General Government**

Rebuilding Consumer
Confidence Act, 2020

1st Session
42nd Parliament
Monday 22 June 2020

**Comité permanent des
affaires gouvernementales**

Loi de 2020 visant à rétablir
la confiance chez
les consommateurs

1^{re} session
42^e législature
Lundi 22 juin 2020

Chair: Goldie Ghamari
Clerk: Valerie Quioc Lim

Présidente : Goldie Ghamari
Greffière : Valerie Quioc Lim

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 22 June 2020

Lundi 22 juin 2020

The committee met at 1000 in room 151 and by video conference.

**REBUILDING CONSUMER
CONFIDENCE ACT, 2020
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 present in the room: We have MPP Tom Rakocevic and we have MPP Mike Harris. The following members are participating remotely: MPP Bob Bailey, MPP Darryl Kramp, MPP Sheref Sabawy, MPP Mike Schreiner, MPP Jennie Stevens, MPP Daisy Wai.

Also, I believe MPP Chris Glover has just joined us. Can you confirm that you are present and that you are MPP Glover?

Mr. Chris Glover: I am MPP Glover and I am present.

The Chair (Ms. Goldie Ghamari): Thank you. And can you confirm where in Ontario you are joining us from?

Mr. Chris Glover: I'm in Toronto.

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

Are there any other MPPs on the line that I have missed? All right, we will move on.

We're 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.

SUBCOMMITTEE REPORT

The Chair (Ms. Goldie Ghamari): I have one other item to mention before we begin. The order of the House dated June 16, 2020, authorized the subcommittee to determine how to proceed with the public hearings. We will not need to vote on this report, but I will read it into the record to make sure all members are aware of the contents.

Your subcommittee on committee business met on Wednesday, June 17, 2020, to consider the method of proceeding on Bill 159, An Act to amend various statutes in respect of consumer protection, and determined the following:

(1) That witnesses be scheduled in groups of three for each one-hour time slot, with seven minutes each for their presentations and 38 and one-half minutes for questioning for all three witnesses, divided into two rounds of eight minutes for each of the government and the official opposition, and one round of six and one-half minutes for the independent members as a group.

(2) That witnesses be arranged into groups of three chronologically, based on the order their requests to appear were submitted.

(3) That the research officers provide the committee with a summary of witness presentations by 2 p.m. on Thursday, June 25, 2020.

(4) That all witnesses appear remotely by Zoom or by teleconference.

(5) That all submissions and committee documents be distributed electronically to all members and staff of the committee.

Are there any questions from the members before we begin? Seeing none, we'll move on.

**ONTARIO BUILDING OFFICIALS
ASSOCIATION
MELBAR ENTERTAINMENT GROUP
AND BT/A ADVERTISING
MR. MARCEL BELLEFEUILLE**

The Chair (Ms. Goldie Ghamari): I will now call upon the following presenters: From the Ontario Building Officials Association, we have Mr. Matt Farrell and Mr. Aubrey LeBlanc; from Melbar Entertainment and BT/A Advertising, we have Barry Avrich; and we also have Marcel Bellefeuille.

Each presenter or group of presenters will have seven minutes for their presentation, followed by a round of questioning from the MPPs on the committee. I would ask that you all please state your name for Hansard before you begin.

I'd now like to call upon the Ontario Building Officials Association. Please state your names for the record, and you may begin. You have seven minutes.

Mr. Matt Farrell: My name is Matt Farrell. I'm the immediate past president for the Ontario Building Officials Association. With me is our CAO, Aubrey LeBlanc.

I appreciate the opportunity to come forward and speak before the committee today. As mentioned, my name is Matt Farrell and I'm representing the OBOA, but I'm also the building and planning manager for the municipality of Huron-Kinloss. For all those of you who not familiar with the OBOA, I'll share a little bit about what we do. We represent over 1,900 professional building officials from municipal jurisdictions across the province. Our members are on the front lines when it comes to ensuring that Ontarians live and work in safe buildings, and we take pride in knowing that we are helping to protect our local communities.

Buying a house is, for many, the biggest investment they will make in their lifetime, and we ensure that that investment is built to the high standards that the province's building codes require. We also ensure that schools are safe for our children and that care facilities are safe for our elderly. All the buildings that our commercial, industrial and agricultural businesses need to succeed are constructed under the watchful eye of professional building officials.

As our economy looks to recover from the effects of the COVID-19 pandemic, our association is working with governments at all levels as well as our partners in the construction industry to reduce existing barriers and provide innovative solutions that will help this province get back on its feet.

As we stated earlier this year, the Ontario Building Officials Association applauds the government and Minister Thompson's efforts to rebuild consumer trust through the introduction of Bill 159, the Rebuilding Consumer Confidence Act. The changes sought through Bill 159 align with a number of our principles, including strengthening consumer protection and ensuring the health and safety of those who live in new homes.

While the reports produced by both Justice Cunningham and the Auditor General focused on the work of the Tarion Warranty Corp. and its role in protecting consumers, many of the findings and recommendations they put forward involve building officials and the approval services that municipalities provide. There is much work to be done in this area, which is why the OBOA has been working together with Tarion and the Home Construction Regulatory Authority on ways we can improve the new home buying experience and enhance protections for those consumers.

We firmly believe that broader stakeholder involvement is needed in the governance of both bodies so that a

fair and effective system is achieved. Information and sharing between all agencies must also be a part of the solution. The changes introduced in this bill will help in both areas.

In addition, the OBOA supports the government's efforts to increase consumer awareness around the buying of pre-construction condo projects and builder track records.

There are many pieces in this complex system, so we need to be careful in considering the degree of change required. Far too often, we see best-intention legislation undone by unintended consequences that are exposed.

As I mentioned in my presentation in January, there are many other stressors that are impacting the construction sector, including the shortage of skilled tradespeople in the industry; higher expectations that our buildings rightfully be accessible, reduce energy consumption and adapt to our changing climate; and the desperate need for more affordable housing—all this in a time when the province is expected to grow by two and a half million people over the next 10 years.

The OBOA is doing its part to address some of these issues that were just identified. For example, we are facing a shortage of knowledgeable and experienced building officials due to a generational shift in the workforce. As a result, we've ramped up our efforts to recruit new building officials from across the province.

The last three months have taught us that we need a system that is prepared for the unexpected and that disruption is inevitable. Now is the time to look for innovative approaches to solve these critical problems and embrace technology and data analytics to get some of these needed solutions.

Bill 159 is change legislation, but it's also enabling legislation that will allow decision-makers to enhance protections while adapting to these disruptions when they occur.

1010

As the association that represents the professionals responsible for ensuring new houses and homes comply with Ontario's building regulations, our members look forward to continuing our work with the province, the Tarion Warranty Corp., the Home Construction Regulatory Authority, home builders and consumers to ensure that the new home purchasing process remains a positive and a safe experience.

Once again, the OBOA applauds this government in their efforts to strengthen consumer protection and believes the changes introduced will go a long way towards building confidence in the sector and putting new home buyers at ease when making their largest investment. Thank you.

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

Before we continue, my understanding is that MPP Nina Tangri has joined us.

Can you confirm that you are present and that you are MPP Nina Tangri?

Mrs. Nina Tangri: I am present, and yes, I am MPP Tangri. I'm in my constituency office in Mississauga.

The Chair (Ms. Goldie Ghamari): Thank you. I still have to ask the question, though. Can you confirm where in Ontario you are joining us from?

Mrs. Nina Tangri: In Mississauga.

The Chair (Ms. Goldie Ghamari): Thank you, MPP Tangri. We can now continue.

I'd like to call upon Melbar Entertainment Group and BT/A Advertising. Please state your name for the record and then you may begin. You will have seven minutes for your presentation.

Mr. Barry Avrigh: My name is Barry Avrigh. I'm from BT/A Advertising and Melbar Entertainment Group. I appreciate the opportunity and I again applaud this government for doing state-of-the-art work during this crisis.

Why am I here? I've had the benefit of working for 30 years in advertising and the entertainment industry, so understanding what motivates consumer transactions, being through recessions, working carefully through [*inaudible*] clients, both in the entertainment [*inaudible*] and what's necessary to reboot consumer confidence.

I will say that the one thing we have found in Ontario is that you cannot isolate somebody's imagination. People have found creative ways to continue with their lives, yet the scar tissue is certainly still there from this virus.

I did look closely at a lot of the policies and programs that were introduced right after 9/11 that were instrumental in building consumer confidence, not only in New York state, but across America. A lot of that good work, both emotively and strategically, will be relevant here.

I think what's interesting in terms of what the Ontario government has done has been transparency. Transparency will be the new normal in terms of dealing with consumers, constituencies and the general public in Ontario, so I would encourage the government to continue to lay it on the line and be realistic about expectations and, at the same time, still encourage hope. But I hope this transparency being a new normal is something that continues.

From a marketing perspective at the end of this, acknowledging the struggle that everybody has gone through needs to be critical. We've all seen the eight billion commercials of people washing hands and socially distancing, but acknowledging the struggle that we've all been through in that marketing message will be the right message. The language that's critical is resetting the economy at the end of it, because we will come out of this at the end. We've seen recessions that have created tremendous downturns to economies, but what's interesting about this one is that it has reshaped entire business sectors, from the way people shop, to the way people work, to the way people eat and socialize. So the right programs are going to be critical, at the end of the day, in acknowledging the fact that we will come out of this, but at the same time understanding that business sectors have been changed forever as it relates to this.

I think as we look at the marketing exercise for this—and I'll just finish here, in that it needs to be positive, it

needs to be realistic. There need to be business and economic policies that really focus on small business at the end of the day—I do believe that large businesses are going to find their way, not without struggle—the whole shop-small sense of it, to ensure that consumers really focus on supporting small business.

With that, I'll yield whatever time I have left back to the committee. Again, I deeply appreciate being invited.

The Chair (Ms. Goldie Ghamari): Thank you very much. Just a quick note for presenters: The time that the committee has for questioning is very strict, so if you yield your time, it's not like it can be made up afterwards. So you do have three more minutes if you'd like to continue on.

Mr. Barry Avrigh: I appreciate that, but I'm good. I'm happy to take any questions.

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

We'll now move on to our next presenter, Marcel Bellefeuille. Please state your name for Hansard, and then you may begin. You have seven minutes.

Mr. Marcel Bellefeuille: My name is Marcel Bellefeuille. I'm a professional football coach, and I'm here to speak on behalf of consumers.

Dear committee Chair and members, I want to thank you for the privilege and honour to present today regarding Bill 159, Rebuilding Consumer Confidence Act, 2020. I'm going to discuss issues surrounding the Tarion Warranty Corp. as part of Bill 159.

"The system is broken," stated current Minister of Government and Consumer Services Lisa Thompson and previous minister Bill Walker. I applaud the ministers for recognizing the facts, but I would be remiss if I did not go on the record stating that the current bill is making an assumption that Tarion Warranty Corp. can be reformed without further amendments.

Over the course of the next two days, you're going to hear from building industry members about all the perceived good work they are doing from consumers. You are also going to hear from consumers about the devastating consequences and life-changing experiences they have had from a lack of oversight and consumer protection. There is an enormous disconnect that's been in place. This is a great opportunity for us to make real changes to keep the public safe.

The story of my family in Cardinal Creek Village has been well-documented—health and safety risks, structural defects and Ontario building code violations, plus some of my neighbours living through black mould and radon while quarantined during COVID-19. This could have been prevented. We are Ontarians and we are better than this. I'm going to share my screen out for a couple of examples here: mould, health and safety, major structural defects, lack of consumer protection, Ontario building code violations, construction defects, and then two stories that have been written over the last two years from the CBC regarding our neighbourhood and our struggles.

Since my government announced changes to Tarion, I previously testified in January 2020 and previously testified regarding consumer protection of Tarion Warranty

Corp. We do not have a fair, safe and informed newly built home purchasing marketplace. Therefore, I have three specific asks of my government to give our people a chance to make fair, safe and informed choices on newly built home purchases.

The first one relates to compliance with operating principles. Currently under subsection 2(3), it states: “In addition to the terms required under subsection (2), the administrative agreement shall require the regulatory authority to comply with the principles of,

“(a) maintaining a fair, safe and informed marketplace; and

“(b) promoting the protection of the public interest.”

My ask is to strike 2(3)(b), “promoting the protection of the public interest,” and insert, “for promoting consumer protection.” How do you have a consumer confidence act that does not state the promotion of consumer protection? You cannot develop a culture of consumer confidence in newly built homes without talking about consumer protection.

My second ask: My request is to have the builder directory taken away from Tarion. Have the builder directory administered by the Ministry of Government and Consumer Services, including the policies and procedures. Maintaining an informed marketplace has not happened and will not if we leave this responsibility to Tarion Warranty Corp. Tarion’s corporate culture and builder influence will not allow them to provide safe and accurate information to the public. Accurate public information gives consumers a chance to make good decisions. How many of you have read reviews before purchasing a new vehicle? Show of hands? Thank you.

For example, when a builder does not meet warranty responsibilities, there’s a process that dictates where they are placed on the public builder directory. That information is available to us. Tarion has created some unfair practices that allow builders not to be noted. One of these contrived processes and practices is what homeowners in Ontario call “builder 101 denied access.” The builder will make a claim to Tarion that they were denied reasonable access to repair. Tarion will settle with the homeowner. They will contract someone to repair the Ontario building code violation, but they will not post that information publicly for the public to look at.

1020

This practice lacks transparency because it’s done under the veil of secrecy between Tarion and builders without obtaining any information from homeowners. In many cases, the builders have been given access to do repairs and have not completed them properly or have denied that defects require repair. This practice of not obtaining this information was noted in the Auditor General’s report and admitted to by Tarion’s current CEO, Mr. Peter Balasubramanian, in his testimony at the Standing Committee on Public Accounts, and specifically related to Cardinal Creek Village—see the Hansard transcript of 2019.

I personally offered to provide Tarion documented evidence of three months of builder access to my home if

they would reverse these decisions. But what was missing from the Auditor General’s report was that homeowners are not allowed to challenge or participate in these decisions. They have policies like Tarion bulletin 20 that allow builders to dispute public information or claims such as on the building directory. Furthermore, it states that those decisions are solely Tarion’s and do not affect homeowners. In what world is accurate consumer information not important to the public? Does any of this contravene the consumer act in maintaining a fair, safe and informed marketplace?

The third ask I have is to remove builders from the Tarion board. Governance 101: There should not be conflicts of interest or even perceived conflicts of interest. Remove builders from the board and give them an advisory council. That’s all we have as consumers. The current proposal allotment of a third to OHBA, a third to industry professionals and a third to consumers has not happened in the last 10 months since I’ve testified. The current board doesn’t even have one member with extensive first-hand experience in new homes or dealing with these policies and procedures. Somebody obviously decided to forgo the minister’s recommendations. The building industry is a strong lobby—I understand that—and it will take strong leadership to put these control measures in place to keep Ontarians safe. But if Tarion and builders can truly deliver on the products and services they state they can, there should be zero pushback to any of these amendments.

I thank you for your consideration. It has been a pleasure speaking to you.

The Chair (Ms. Goldie Ghamari): You have one minute left.

Mr. Marcel Bellefeuille: On that note, I would also state to you that the board of directors, as it stands today, has 12 members out of a possible 16, and not only does it lack consumer advocacy on the board, it also doesn’t represent, in my mind, what Ontario looks like today as well. We’re missing representation from francophones, we’re missing representation from visible minorities, and there is not representation either from women—there is only one out of 12 on the board. I think a more diverse group would give a better representation of what Ontario truly is. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much. It’s good to see you again, Marcel. I hope you’re doing well and staying safe. Give my best to your wife and your family.

Before we continue to a round of questioning, I’d like to just confirm—we have a new MPP who has joined us.

MPP Vijay Thanigasalam, can you confirm that you are the member and that you are present?

Mr. Vijay Thanigasalam: Good morning, Madam Chair. This is Vijay Thanigasalam from Scarborough–Rouge Park.

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

Mr. Vijay Thanigasalam: Scarborough, Ontario.

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

We'll now begin this round of questioning. We'll do it in rotations. The official opposition will have eight minutes for questioning, followed by six and a half minutes from the independent Green Party member, followed by eight minutes from the government side. Then there will be another round from the official opposition for eight minutes and from the government side for eight minutes. I will be keeping track of everything on my phone. There will be a hard stop, so as soon as time is up, your mike will be cut off.

At this point, the official opposition may begin. You will have eight minutes. MPP Rakocevic.

Mr. Tom Rakocevic: Mr. Bellefeuille, I just want to say you're a brave man. Your wife, Julie, is very brave. I had the chance to attend an Orleans meeting put together by the Canadians for Properly Built Homes, and I first-hand witnessed your basement and elements within your home and I was shocked and disappointed at what I saw, for you building a new home.

You've looked at the bill, I'm certainly assuming; I'm sure you've looked at it in great detail. Does this bill in its current form give you confidence? Do you believe that this will rebuild consumer confidence, in its current form?

Mr. Marcel Bellefeuille: No, I do not, Tom. There are a few reasons for that, but first and foremost, we haven't moved the needle at all in terms of any oversight or building consumer confidence as it relates to new home purchases. The bill does not go far enough, and I've stated this prior to this, regarding the key components of a client-centric approach—"a client-centric approach" meaning that you're taking into consideration the end user first. In our case, we are the end users, the new home purchasers.

The process right now—again, we identified key components in Justice Cunningham's report that didn't get implemented into this bill, but there are no mechanisms to control this. The Tarion board, for example: We're asking for an amendment to take it away from the builders, because that's where policies are developed. There is nothing in that perspective. The board was supposed to be changed; it hasn't been changed. There is nothing in this bill here that speaks specifically to Tarion and its policies and procedures as they relate to consumer protection. I gave you one example of some of the caveats they use to keep builders from coming off of the directory and keeping the public information not able to be accessed. There are many others that they use—and I'm sure you'll hear about them today—to protect builders. You have a builder-centric organization that is builder-driven, builder-laden, and there is nothing in the bill to change this or to move the needle as it stands today.

My concern is, first of all, there is nothing that is going to give us hope. You can give us hope by changing the mechanism on the board. You can give us hope as a consumer base that we're not going to have to deal with these issues if you change the procedural makeup of Tarion. But in the end—and there's nothing in the bill that's going to change those two facets—unless there's a multi-provider and competition that will breed that success, we're not going to feel differently as new homeowners.

I've been a head football coach in the CFL for the past 18 years. As a professional coach of the Hamilton Tiger-Cats and the head coach, our organization has always considered fans—who are our consumers—their safety and their experience first, before making any decisions regarding our processes and procedures and how those were going to affect them. In this case, that doesn't exist.

When I mentioned bulletin 19 to you, when these processes were put in place to deny access—I say it again; there are a lot of lawyers on this call: Are we actually contravening the act by allowing these processes to go forward? That's a rhetorical question, I guess, at this point. I don't feel that that is going to happen, and we are in that position as it stands right now without anything new in this.

You've put an amendment forward regarding the board and giving that responsibility to the ministry. I think that giving it to un-influenceable, full-time people who work in the ministry gives us a chance. That's something we can hope on.

The Chair (Ms. Goldie Ghamari): Are there any further questions from the official opposition? MPP Rakocevic.

Mr. Tom Rakocevic: There's no mention of what you've been going through in the builder directory as it currently stands. If you look at it now, does it reflect just your home alone? Because I know there are many homes facing your situation over there. What does the current builder directly look like for Cardinal Creek?

Mr. Marcel Bellefeuille: Right now, it's only noted as two homes with claims. There's nine on my street alone that I'm aware of—and that's because of these caveats and loopholes that they've put in place in their policies so that the public doesn't have access to that information. That's not even including the whole neighbourhood. It's noted as \$9,000 paid in claims. I have up to \$300,000 on my home already, just my home alone. That cap is going to be nowhere near enough to repair this home. So that information, as you go up and down the street, even in the neighbourhood is not accurate.

The other thing that should be noted, which could be another amendment, is Ontario building code violations. We do have somebody on from the OBOA here. Mr. Farrell presented. We had up to 20 Ontario building code violations when we took possession of our home, and in the neighbourhood you can multiply that by substantial numbers. Those could be noted on builder directories as well—it's the pink elephant in the room right now—so it puts more onus on builders at the onset to build correctly, and on the inspectors to make sure that they're doing their due diligence.

1030

Mr. Tom Rakocevic: Excellent.

You talked about the current board structure. You've talked extensively over time about the culture at Tarion. Do you believe that builders have influence that goes beyond Tarion? Can you think of examples or are there any situations where you have concerns that builder influence goes beyond Tarion itself and maybe could even

influence larger-scale policy that may not be pro-consumer protection?

Mr. Marcel Bellefeuille: Inherent in all this is the builder lobby. It's a very strong lobby, and I understand that. I can tell you, because we do have access to public information, how many donations they make to MPPs, MPs, local aldermen—the amount of just donations. I can go through it because I've gone through them across the province.

The perceived conflict of interest in that program, their ability to influence projects, and their ability—because it's a builder-laden board—to influence policy and procedure just by itself makes it inherent that there's no way consumers could have confidence in this process.

Mr. Tom Rakocevic: I'll have another round of questioning. There will be more questions ahead. But one last question: What would it take to change the culture at Tarion? If you could express it even in a sentence or two, what would it take?

Mr. Marcel Bellefeuille: Well, in professional sports, which I work in, if you want to change the culture, you have to remove the general manager, the head coach, the coaching staff and some of the players and keep just the front-line workers. You cannot change culture by making nominal moves. That's corporate culture, and that is professional sport culture. You see it all the time, and the last electorate also did that. The previous government also changed the culture in a resounding way during the previous provincial election. So you see that all the time. That's the only way you can start—

The Chair (Ms. Goldie Ghamari): Thank you very much. My apologies. That's all the time we have for this round of questioning.

We're going to have a slight procedural change in the way we do questions. In the interests of openness, accountability and transparency, the independent Green Party member will always go third. This will allow him to be able to listen to questions from the official opposition as well as the government prior to beginning his questions, because he does only have one round. I've already consulted with the member on this, and he's in agreement. I don't think there should be any issues from the committee on this. The official opposition and government will still rotate based on each group of witness presenters.

With that, we're now going to turn to the government. You will have eight minutes for your questions. MPP Harris.

Mr. Mike Harris: My question is for the OBOA. I'm not sure exactly how many folks we still have on from that organization, but I just wanted to say thank you for all the consultation that you've done with the ministry over the past—I guess we're almost a year at this point—and some of the deputations that you've done.

We've heard a little bit this morning already about what it takes to change consumer confidence and culture within organizations etc.

What role does the Ontario Building Officials Association and its membership play in promoting properly built residential construction and strengthening

consumer confidence and consumer protection for new home buyers?

Mr. Matt Farrell: The role we play is both in enforcement, when we're acting on behalf of the municipalities who are required to enforce the building code to ensure that there is compliance with that regulation—but in the last couple of decades we've become more of an educational arm in the building sector as well. With the number of building code changes that happened over that time, the document has become very complex, and we have seen a change in the workforce, as we have more new people coming in and some of the older generation retiring, so there is a need for knowledge in this area.

In terms of what our role is, that's basically what we've become—a knowledge transfer medium for building regulation to the front line, whether it be the builder, whether it be the homeowner, the property owner. We need help in that respect, as well. I also agree that Tarion has a very important role, as well as the Home Construction Regulatory Authority, and there are other agencies, as well, that can provide it.

As I said earlier, this is a very complex system with a lot of players, so we all have to do our part in sharing that message.

Mr. Mike Harris: When you say that you need help doing that, could you elaborate a little bit more on what that might look like?

Mr. Matt Farrell: Yes. It needs a focus on communications. One of the things that agencies, government agencies in particular, are not very good at is communication, so we have to have that focus on transparency and making the information available to the consumer. I agree in some respects that there needs to be more transparency in the system to make consumers aware of bad builders. I want to be very clear that not all builders are bad builders; it's a very, very small minority, but we need to identify those and we need to share the information with each other as regulatory bodies, and we need to share that with the consumer.

The Chair (Ms. Goldie Ghamari): Further questions? MPP Bailey, you have the floor.

Mr. Robert Bailey: I just wanted to speak to the OBOA representative there, Mr. Farrell. One of the changes that we made in the new bill, Bill 159, was also to Tarion's consumer committee and consumer advisory council, where the consumer committee is composed of six members of the board and represents Tarion's major stakeholders. The committee provides guidance, informed opinion and progressive ideas to the board, as well as the promotion of consumer interests. This committee also assists Tarion's management committee. The committee meets four times a year, and at other times as the committee may determine. It has also served as an advisory body to the consumer committee.

The new position of the ombudsman is also at those meetings. The members of the council include consumers who have been through our warranty process, a home inspector, a retired building official, real estate lawyers

and other experts who have direct dealings with homebuyers.

Could you speak, Mr. Farrell, to the efficiency of that and how you see that going forward if we roll this out?

Mr. Matt Farrell: Yes, I think the advisory function is very important to any agency, especially one that's in an authoritative role in protecting consumers. There are a lot of stakeholders in this sector, obviously, and there's a lot of interest in ensuring that buildings are built safely and properly, so I applaud that the advisory function is being created.

I think from my experience, as well, that whenever you have more collaboration, more conversation between different sectors and different interests within a certain area, you get a better and broader idea of what the issues are and you have more ideas on how to solve those issues. It should never be that one solution is the right solution; you have to look at, basically, what is the best for the magnitude of individuals who are being involved, and try to come up with a collaborative approach to solve the issues at hand.

The Chair (Ms. Goldie Ghamari): Are there any further questions or comments from the witnesses? No? Seeing none, then we'll turn to the independent Green Party member.

MPP Schreiner, you have six and a half minutes. You may begin.

Mr. Mike Schreiner: Thank you to all three presenters for taking the time to come in today.

Marcel, I'm going to direct my first question to you. I have had the opportunity to just read about what you and your wife has gone through, and my heart goes out to you—and probably most people's in Ontario, as well.

Do you believe that the changes outlined in Bill 159, as currently written, reflect the recommendations to overhaul Tarion that Justice Cunningham articulated in his report?

1040

Mr. Marcel Bellefeuille: Thanks for the question. I appreciate it. And thank you for the empathy. As it relates to our family, we're on the other side of this now. I'm here to represent all Ontarians, starting in my own neighbourhood, because I think that's where you have to start.

To answer your question specifically, no, it does not, nor did it implement those recommendations, and it doesn't go far enough.

There are a couple of things that I'd like to address, because there are some great points being made. One of them is the complexity. It really feels like this is complexity by design, and that's what safeguards everyone. It is a rabbit hole, and I do take Mr. Farrell's comments—they're excellent comments and an excellent narrative regarding their part in municipalities, because there's another part of municipalities that's not in this bill, and they have a simple word that could change the whole game in terms of accountability. In the act it says municipalities "shall" give building permits. If they change that one word to "may," they would have much more power at the onset of the issues or to slow down the processes or if they don't have the right amount of

inspectors. That would be very helpful. So that's the first part of that answer. It's excellent information; I appreciate it.

The next part is as it relates to the advisory boards and as it relates to all the people who have been consulted to put this bill and this Tarion piece together. We say this in pro football: You're only as good as your players or your intentions. The people who are most affected in society are the people we should spend the most time on. The most egregious cases need to be dealt with, and you see that in society in general. From my perspective, I don't believe that we've gone far enough. I think that we should have implemented all of what he decided, especially the multi-provider model. That's a big piece.

And because you're Green, I am going to mention this, and I'm just going to plant the seed here for the committee, because this is going to come out at some point and it's probably going to be a public issue at some point once COVID-19 dies: The energy efficiency of these newly built homes is not what it's supposed to be. The carbon footprints are not what they're supposed to be. We've been doing extensive research as a community and we'll have more to say on that in the future. Because of all the issues that homeowners have been dealing with, they've come across this information, so there's probably more to be said about that. Again, I speak to that because you are from the Green Party, and I know that this is an important thing not just for you, but for all Canadians.

Mr. Mike Schreiner: Absolutely. I appreciate you mentioning that. It obviously will lower your utility costs if we do the efficiency at the beginning, rather than not having it there, so it's a very good point.

My next question is around conflict of interest. Do you feel that the way the board is set up, as Bill 159 is currently written, creates conflict of interest in terms of who sits on the board?

Mr. Marcel Bellefeuille: Yes. I want to remove builders from the board. I'm holding a printout of the current board right now, all of the members who are noted on the website, and I'm looking at real estate, the Greater Toronto Home Builders Association, infrastructure, Cardel Homes—I'm looking at all these people, and of course it's a conflict of interest, even if it's a perceived conflict; I don't care what organization it is, whether it's government or a professional agency or any type of business when you're serving the public.

So you have this here, it's rampant and we don't have a situation right now where you have true—and again, when I say "true," I'm talking about true consumer people. If you don't want to have consumers, actual consumers like myself who have been through this process, or CPBH and those organizations represented on these boards, to help give them information as to what it feels like for the end user—I go back to "client-centric." We keep losing that.

I was doing work with Health Canada and talking to them about this client-centric approach, where a policy goes out from the boardroom, and then, "How does it affect the end user?" Right now, it has a negative effect. Again, if you're not going to have that, remove the

builders from the board completely, keep governance people in there, have a balance of those and your financial people, and then try and get on with it from there and make two advisory councils. Make it at least a level playing field. Give us some hope.

Mr. Mike Schreiner: Great, I appreciate that.

My time's probably getting a bit limited, so I'm just going to shift—

The Chair (Ms. Goldie Ghamari): You have one minute and 30 seconds left.

Mr. Mike Schreiner: Thank you, Chair.

Matt, you're right: I think most builders are good, but as in any industry there are always some bad actors. Sometimes even good builders can make mistakes inadvertently.

Do you think that Bill 159 has the ability to identify those bad builders? I'm assuming all builders' reputations are at risk from the actions of some bad actors. Do you think this bill allows for the identification of those bad actors?

Mr. Matt Farrell: Thank you for the question, MPP Schreiner.

Yes, again, the devil is always going to be in the details. In my opinion, you want to keep the legislation fairly broad, but you want to ensure that the regulations do achieve the outcomes you're looking for. I don't think you want legislation that's so rigid that it's not going to allow you to adapt over time, as well. We're in a very disruptive time where change is going to occur. I think change needs to occur at this point, and I think there needs to be more transparency, but to be quite honest and respectful to—

The Chair (Ms. Goldie Ghamari): That's your time. My apologies. Thank you.

We'll now turn to the official opposition again. You have eight minutes. MPP Rakocevic.

Mr. Tom Rakocevic: My set of questions is going to be for Mr. Farrell. Thank you for being here as well.

I had an amendment earlier following first reading of the bill, when this was travelled, that would have taken information about problematic builders and provided it directly to municipalities. Ultimately, this amendment was rejected. Do you believe this amendment would have been helpful to you?

Mr. Matt Farrell: I'm not going to speak to the amendment itself, but I think the idea of sharing information—and I talked about that in my presentation—is very important. As long as the mechanisms are in place that are going to enable—and I hope this legislation does enable; I do believe it does enable that information sharing to occur—it is what we're looking for.

What we have to do is work together as a sector to identify what information needs to be shared. We have to remove some of the confidentiality aspects of it as well, because there are things that do need to be shared between municipalities. And we need to share our information. I think the use of the analytics in determining where problems are occurring, whether it be with the builder itself or in a specific area—geographical issues can cause

problems with buildings. All that information needs to be shared.

Mr. Tom Rakocevic: Excellent.

You might be familiar with Mr. Bellefeuille's story and what his family and other families in his subdivision have gone through. How do major structural defects—hundreds of thousands of dollars of damage—occur? There are inspections that should be going on during construction. How can something like this occur?

Mr. Matt Farrell: There are many ways for it to occur. I'm sorry, I'm not as familiar; I know some of the broad aspects of that current situation, but I can speak from my own experience.

Yes, there can be builder-quality issues. There could be material-quality issues—improper concrete being delivered to the site. But there are environmental issues that can occur as well. We are in a changing climate where temperatures change fairly rapidly to a great degree, and that plays havoc on structures. When you're talking major structural defects like cracking or heaving, those types of things, I've seen that occur quite frequently—and it's no fault of the builder. It's just that the conditions are changing so rapidly. And we need to evolve our building codes, too. Yes, it's a complex document, but we also need to ensure it's up and consistent with the changing needs of today.

There's some poor maintenance as well. It's not often you see this, but I do see this—that the lack of consumer awareness on some needs can cause issues to occur. I'm not going to finger-point any one instance at all, but it happens fairly consistently across the board. It could be a variety of issues. But we need to take a look at what those issues are that are occurring and try to figure out why they're occurring, and then stop that from occurring in the future.

1050

Mr. Tom Rakocevic: Your chief administrative officer, Aubrey LeBlanc, is a former Tarion CEO and now works closely with you for the OBOA. What experiences do you think Aubrey has brought to now working with you? Have you learned anything from this? Do you have any suggestions based on the experiences at Tarion?

Mr. Matt Farrell: I'm not going to speak for Aubrey, but he has been a great mentor. He was with Tarion probably 15 years ago. He was there for close to a decade. He brought in a lot of the builder guidelines that weren't in place before. He essentially changed the culture there to make it a quality insurer space. I think very highly of Mr. LeBlanc, so I'm not going to get too far into that. He has shared some of his knowledge in the workings of Tarion, which has been beneficial. We started getting involved with these consultations before Justice Cunningham did his report, so having him close to us and giving his unbiased opinion on the way things are run was very beneficial.

Mr. Tom Rakocevic: How much time do I have?

The Chair (Ms. Goldie Ghamari): You have three minutes.

Mr. Tom Rakocevic: Do any of my colleagues want to share or have any questions? Okay. Well, I have more.

Mr. Bellefeuille said that, again, he's facing hundreds of thousands of dollars' worth of defects. He is not alone—just on his street and the entire subdivision. He says that the current builder directory is not reflective of the situation that's currently happening. Do you have any comments on that? Do you think that that is helpful to prospective homebuyers, to municipalities, to whatnot?

Mr. Matt Farrell: That's the system in place that—yes, I know it's not helpful to current buyers, but there are processes that have to occur. Obviously, those can be long processes.

If you are to challenge the municipality—and we get challenged quite frequently on major structural defects that occur because of missed inspections or missed compliance. Those take years and years to resolve. The system that we have in place does not allow you to identify these issues or place guilt on an individual until that is actually resolved.

Mr. Tom Rakocevic: Would you like to see Tarion take a more explicit consumer protection *raison d'être*—position, point of existence? Do you believe that that would be important? And do you believe that the format, who sits on the board, is important? Do you believe, currently, that there is enough true consumer protection on the board? And if you don't know about the current board composition, do you believe that that's very important?

Mr. Matt Farrell: I believe a variety of viewpoints is important on the board. Some of the best knowledge I've gained—

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

Mr. Matt Farrell: —through my experience is from talking with everybody in the sector, understanding from their point of view where they're coming from. I think there's a lot of knowledge and leadership that can be gained from great builders, and their thoughts should not be ignored in this. To be quite honest, they want to protect the consumer as much as themselves, and they want to protect the industry, because that's where their livelihood is. They don't gain from having bad builders. There are a lot of educated people out there who can help out on any board, and I do support having a broad range of expertise on that.

Mr. Tom Rakocevic: Mr. Avrich, I didn't have a question for you. I know my time is wrapping up, but I just wanted to say thank you for presenting and I appreciate your words.

The Chair (Ms. Goldie Ghamari): That concludes our time for the official opposition.

We'll now turn to the government side. You have eight minutes for questions. MPP Kramp.

Mr. Daryl Kramp: I thank all of our witnesses for coming here today. This is very important legislation in many people's minds, because as Mr. Bellefeuille and others have mentioned, what is more important than your home and having that roof over your head? You want to have absolute assurance that that key priority, probably

one of the most expensive investments you're going to make in your life, is done properly and correctly.

My first question would be to Mr. Bellefeuille. Mr. Bellefeuille, I actually had a fairly involved set of experiences in my life in the sporting field coming through, and I well recognize a lot of the direction that you're giving and some of the analogies that you've posed. In a great team, you have them all: You have the offence, you have the defence, you have the special teams, and they all have to play their role, no different than any organizational structure.

Certainly, as we are in the process of putting in place, I suppose, the best structure that we can find that's going to represent all of the interests involved, that's where we have tried to find the effective compromise of adequate representation from all interests on that. I couldn't imagine having to go through what you and your family and a few others went through. It's just not acceptable, and we have to make some significant changes.

Going forward, I think one of the major priorities we're going to have to have is to take a very, very serious look at the actual regulations, because in the regulations, as Mr. Farrell had said, the devil could be in the details. I think this is very, very important, and I'm hoping you and your organization and all of our witnesses will play a role in putting forth your thoughts and your guidance and your support to help us shape this legislation.

If you had one or two or three really important criteria that should be in the legislation, could you share that with us?

Mr. Marcel Bellefeuille: Thank you for your comments. I appreciate it.

One of the reasons why I brought forward these three pieces today, one the promotion of consumer confidence as part of the act, making that note—that's not currently under the Ontario New Home Warranties Plan Act. You don't find that in there; at least, I couldn't—just so that we talk about it, start thinking about that as a culture piece right now.

The second piece I brought forward was taking the board and removing builders from the board. That, to me, gets a better complexity on the board. Put them on advisory councils to take away that conflict of interest.

The third piece that I did bring forward today as well was to take the builder directory, which is the access to public information, away from Tarion.

I've asked for those amendments—and you are right, some of that is regulation versus legislation; no question about it. When you're looking for an outcome, if you don't get it through legislation, you have to get it through regulation. The problem is, or the challenge is, again, you have a very astute consumer base now in 2020, and it's only getting more intelligent with social media and information access. If you don't get those changes through legislation, if you ask those entities to do the regulations and they've shown or have a history of showing that they're not going to do it in the best interests of consumers, then you're not going to get the outcome that you want. That's another piece.

Then, my next piece that I'd like to talk about real quickly is, this is a moving target, ladies and gentlemen. We're talking about supply and demand, and we're talking about the number of homes that are going to have to be built in Ontario over the next five or 10 years, and now you're going to have less inspectors. You're going to have a watering down of construction workers. So our legislation had better be tight and our regulations tight because you're going to have more problems just by the enormity of the issue. Right now, are we looking at that?

It's like you said; in sport, we have a saying: "Everything affects everything." Mr. Farrell went on about weather and all kinds of dynamics. We have to consider that to make our legislation tighter. If it's tighter, we won't need to do as much regulation. If we don't have the legislation, then we need to take it out of people's hands who are not going to put the proper tools in place.

Mr. Daryl Kramp: I'm going to direct my question now to Mr. Avrigh. Certainly, sir, you've well stated the changing times that we're in. A lot of the changes that we're undertaking right now—quite frankly, we've been making changes over 10 months that probably they haven't made over the last 20 years, simply due to the actual reality that life itself has changed and whatever the new normal will eventually be, it certainly is going to have an impact on how we move forward.

What do you think would be two or three of the main recommendations that you would like to see in this legislation so that we can achieve that effective balance between governmental responsibilities, agency responsibilities, personal protection for consumers and the general goods? What you don't want to do is get into an absolute bureaucratic nightmare, where we get bogged down in processes and procedures that simply go through an appeal process and can take years and years and years. We need to streamline this and make it very efficient, very effective and very, very fair. Your personal thoughts, sir?

1100

Mr. Barry Avrigh: I'm an unknown on this committee, and some might be wondering why I am here. But listening to Marcel's plight, I will certainly do more research.

Whether it's construction or the retail sector or the cultural sector, there's no question—I think, sir, you've answered your own question. But what I said at the beginning of my statement was that the continuing transparency by the government with the general public and your constituencies will be critical.

It's a balancing act here. I've had the opportunity for 30 years of trying to reignite consumer confidence. Ultimately, the opportunity here is the balancing act—in that if you take away all of the red tape, then you will find some abuse of the system by certain people; at the same time, the public needs to understand the government is there behind them.

The key will really be, as I said in the beginning, in supporting small business, supporting local businesses, and getting the public in and building from the ground up, whether it's building a house with a small developer or whether it's shopping locally from more bespoke retailers.

We're going to have to create those programs to deal with the balancing act to ignite this consumer confidence.

Mr. Daryl Kramp: How much time do I have, Chair?

The Chair (Ms. Goldie Ghamari): You have 40 seconds left.

Mr. Daryl Kramp: Very quickly, then, Mr. Farrell: Obviously, your industry is a massive, massive industry. It's probably one of the largest employers, certainly in this province and in this country. The impact is huge. We need you to ensure that you have the good players in your industry. I'm wondering if you can talk about the challenge and the number of complaints you would get versus the volume of business that is done.

Mr. Matt Farrell: We try to act as a neutral arbitrator in the whole system. Basically, we see things from all sides. Our main focus is on the property owner and the—

The Chair (Ms. Goldie Ghamari): And that concludes this round of questioning.

At this point, I'd like to thank the presenters for joining us this morning. It has been very informative. I know the committee members appreciated engaging in questions with you. At this time, you may step down and you are released. Thank you again, and stay well and be safe.

ONTARIO WASTE MANAGEMENT ASSOCIATION

MR. TREVOR CHARBONNEAU

MS. JULIE BELLEFEUILLE

The Chair (Ms. Goldie Ghamari): We'll now turn to our next set of presenters. We have a representative from the Ontario Waste Management Association: Mike Chopowick, the chief executive officer. If you're here, Mike, please raise your hand to confirm. Thank you.

Do we have Trevor Charbonneau? Please raise your hand if you are here. Thank you.

Julie Bellefeuille: If you are here, please raise your hand. Thank you.

Each presenter will have seven minutes to make their presentation, followed by a round of questioning from committee members. Please state your name for the record, and then you can begin.

We'll begin with Mike Chopowick.

Mr. Mike Chopowick: Good morning. My name is Mike Chopowick. I'm the chief executive officer of the Ontario Waste Management Association. Chair and members of the committee, thank you for inviting me here today to be an important part of the discussion on strengthening the accountability framework for Ontario's administrative authorities.

OWMA, just by way of introduction, is a non-profit sector association representing over 250 private and public sector members who provide waste management services across Ontario. Our members manage about 85% of Ontario's waste management needs.

We're pleased to provide some comments on Bill 159, the Rebuilding Consumer Confidence Act. This legislation will benefit Ontario's economy by strengthening public trust in government agencies and ensuring value for

money is delivered to consumers and taxpayers. We believe it's essential that accountability, transparency and effective governance be upheld in the province's administrative authorities.

We applaud the government's commitment to deliver higher standards of integrity in the civil service, public agencies, administrative authorities and crown corporations. In this context, avoiding conflict of interest in its various forms should be a significant consideration in the day-to-day work of those who occupy those positions of trust.

Conflicts of interest in public sector agencies, boards and commissions are particularly concerning because if they're not recognized and controlled appropriately, they can undermine the fundamental integrity of officials, decisions, programs and policies. Integrity in the public sector used to refer to the proper use of funds, resources, programs, assets and powers for the official purposes for which they were intended to be used.

Of particular interest to the Ontario Waste Management Association today is schedule 6 in Bill 159, which includes provisions to address the governance and accountability of the Resource Productivity and Recovery Authority, known as RPRA, which is a delegated administrative authority under the Resource Recovery and Circular Economy Act. It has a very important and necessary role in providing oversight and enforcement of Ontario's recycling regulations and legislation.

Given the abundance of well-documented accountability and transparency problems associated with former industry-funded associations and organizations, OWMA wants to ensure that any actual, perceived or potential conflicts of interest are addressed and avoided. OWMA supports the measures outlined in Bill 159 and schedule 6, which include provisions to address the governance and accountability of RPRA, that ensure the appointment of the chair is done in a consultative manner with other members of the board, and that appointees to the position of chair exclude anyone who has a clear conflict of interest.

This is probably one of our important points here: Eligibility to serve as chair of an organization such as RPRA and also to serve as members of the board should exclude anyone who has a conflict of interest or who belongs to a sector-based organization that's affected by this organization. In the case of RPRA, this would include members of sectors such as product stewards, industry stewardship organizations, corporations that produce packaging and materials, a waste disposal or waste management company, a municipal government, registered lobbyists and anyone who is or was employed by an industry or sector association representing any of those mentioned above.

Administrative authorities such as RPRA have a vital role in providing oversight enforcement to provincial laws and regulations, and also ensuring a level playing field amongst businesses, fair and open competition, and value for money for consumers. We believe the changes introduced in Bill 159, along with our additional policy guidance on mitigating potential conflicts of interest

amongst the chair and members of the board, will enhance consumer confidence and accountability in the authority.

Thank you for considering our recommendations today.

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

We'll now turn to Trevor Charbonneau. Please state your name for the record and you may begin. You have seven minutes.

Mr. Trevor Charbonneau: Good morning. My name is Trevor Charbonneau. I am a licensed funeral director in the province of Ontario. I have a few quick points that I would like to make regarding schedule 8 of the bill. I would completely agree with the last presenter about the accountability and the conflict of interest that board members should avoid, specifically to DAAs.

My concern is regarding the Bereavement Authority of Ontario, which is a DAA in the province. I believe there should be more accountability with this organization and other organizations like it. I believe that the bill is acknowledging some of that in 12.2, regarding public access to information, but I just wanted to make sure that there was some specific wording with this organization, anyway.

In previous attempts, they have not been subject to freedom-of-information requests or scrutiny from the Office of the Ombudsman. I would just like to see some wording in these that is a little clearer, to say that this organization is subject to it, and that if the public would like to gain information or search information in this agency, that they have the right to do so, and that if anybody in the public or industry wants to have an investigation done by the Ombudsman, that that's allowed as well, obviously under the consent of the Ombudsman's office.

1110

I also believe that—I think it's captured at 11.4, where it talks about public funds. I think that specifically for this organization, the Bereavement Authority of Ontario, that its money that it collects from licence fees should be considered public funds. The money that comes to this organization comes from whenever a death occurs in the province. So if a death occurs, a funeral home collects a licensing fee from that family, and that is collected from the agency on an annual basis. It's not their only source of revenue, but it is the main source of revenue that they have, and I believe that the way it's captured right now, or the way it is being proposed to be captured in this bill, is that that money would not be considered public funds and not fall under the scrutiny therefor.

I would like to see some wording be put in to allow these funds to be considered public funds, because ultimately it is the consumer who is paying these licensing fees. The wording kind of suggests, in the current act, the Funeral, Burial and Cremation Services Act, that it's licensing fees paid by funeral homes, cemeteries and crematoriums, but ultimately it is the consumer that is paying these fees.

The last thing I just wanted to point out is that in my submissions, I did submit quite a bit of written information

that doesn't necessarily specifically deal with the bill—but it's more just my hopes that this committee will report back to the minister's office that myself and many others in our industry, in the funeral industry, feel the same way: The province has a big problem on its hands with this organization. There is a lot of mismanagement going on, there is a lot of misinformation being spread out and there is a lot of bullying, quite frankly, going on by this agency to licensees. Also, consumers are not being served properly by this organization.

There's a lot of information in my submissions; I don't necessarily want to get into it, but I just hope that this committee will report back to the minister's office these concerns, and that when the time comes and this bill is active, an administrator will be appointed to take over the organization, the Bereavement Authority of Ontario, and really investigate what's going on there and get things back on track.

Those are my submissions, and I thank you for your time.

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

We'll now turn to Julie Bellefeuille. Julie, please state your name for the record, and you may begin. You will have seven minutes.

Ms. Julie Bellefeuille: I'm Julie Bellefeuille, and I'm a consumer. Thank you to all the committee members for having me speak today regarding Bill 159. I'm here today to speak as a consumer who has had direct experience with Tarion.

My husband and I purchased a home in Ottawa, and we took possession of what we thought would be our dream home in 2016. During the purchasing process, we were forced to pay for the Tarion warranty. We had no choice. Today we are still living in a home that has code violations, structural defects, envelope issues, three years with no insulation in our walkout basement, and the list goes on. Unfortunately, the Tarion coverage limit of \$300,000 may not be enough for homeowners to mitigate defects, and it leaves them with little option, but has huge financial, emotional, psychological implications and impact on health and safety.

Since my appearance before the committee in January, few of the changes that Minister Thompson vowed to make have occurred. The major overhaul that was promised was a mere shuffling of the prominent developer industry leaders. The creation of the friends-of-the-industry regulatory authority, the HCRA, which is supposed to monitor its own and regulate itself continues to be a reflection of 43 years of failure and lack of consumer protection. As long as the industry influence continues on their boards and that legislation isn't clearly focused on consumer protection, these problems will persist.

We can all acknowledge that there are still serious questions and concerns regarding Tarion. The government's intent in changing perception on transparency, accountability and rebuilding confidence has been met with strong arguments from those who have been failed by the system.

Many consumers have not seen meaningful changes and do not feel confident that this bill will restore confidence and protect consumers.

Tarion is broken and beyond repair. I will say it again: A government-mandated agency that makes payouts to executives and denies claims is not in the business of consumer protection, but rather in the business of public interests of the industry. As David Roberts, former director of enforcement who spoke before the committee in January, clearly stated, the culture of Tarion before 2017, when he retired, favoured builders, and workers were incentivized to avoid making payouts to homeowners. Consumers were secondary; the builders were first.

In August 2019, more than 80 homeowners attended a meeting in Cardinal Creek with Tarion reps, the city and politicians to voice serious concerns regarding the perceived lack of transparency and conflict of interest, confirmed code violations, defects, health and safety issues, burden of proof, delays and drawn-out processes on warranty decisions. Tarion executives promised that change would happen and action would be taken.

Today, homeowners in this community have had to continue to fight to prove and have seen Tarion offer customer service gestures, or goodwill gestures, rather than fulfilling their mandate of making warranty decisions. These gestures are an example of how loopholes, exemptions, internal policies and processes can be used to avoid making warranty decisions that impact the builder's record.

"First, I can tell you that consumer protection has always been our priority," said Howard Bogach, former CEO of Tarion. If it truly had, I would not be here today, lives and health would not have been lost or affected, nor would people be fighting to get quality and safely built homes.

Before handing over one's lifelong earnings, Ontarians should be able to make informed decisions through a builder's performance record. The lack of critical information in the builder directory continues to put purchasers at risk. There's a quote from Justice Cunningham and also Bonnie Lysyk that says that the Ontario Builder Directory does not provide homebuyers with complete information on builders.

An example of issues with Tarion's builder directory in relation to Cardinal Creek is that some owners have received compensation payouts for a total of more than \$700,000 for defects or code violations, and the number continues to rise, but the directory information for this builder in January was zero in all categories. The current, as of March 31, 2020, has zero chargeable conciliations, two homes with claims, \$9,959.55 paid in claims, zero homes with major structural defects, zero dollars paid in major structural defects claims. Tarion clearly states on its website that important information can be found, such as whether Tarion has had to resolve warranty claims on the builder's behalf. If Tarion is not putting accurate information, it is misleading and only protects the public interests of builders, not consumers.

Until every Ontario building code violation, defect and claim is listed in the directory, there can be—

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

Ms. Julie Bellefeuille: —no consumer protection and the public cannot make informed decisions.

Here is a quote from Mr. Peter Balasubramanian, new CEO of Tarion: When they reviewed the application of the kind of exemptions in Cardinal Creek, “They didn’t find in all cases that we checked with the homebuyer for their side of the story in terms of the application of that exemption.”

Only through the appointment of an administrator can the directory be revamped and loopholes and exemptions eliminated to provide consumers the information needed.

In conclusion, as a consumer, I encourage government to look at this bill and question whether or not it will provide consumers with the protection that is needed regarding the largest purchase most will make. Without strong legislation, government oversight and removal of conflict of interest, consumers will not be protected and confidence will not be restored.

Again, thank you for this opportunity.

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The Chair (Ms. Goldie Ghamari): Thank you very much. You finished just in time.

At this point, we’re now going to turn to the government. You will have eight minutes for the round of questions. MPP Bailey, you may begin.

Mr. Robert Bailey: Thank you, Chair. Thank you to the presenters too.

My question is to Mr. Chopowick. I’d like him to give us a little bit of explanation about if in fact he agrees with the proposed changes to the resource recovery act, and then if so or if not, how the changes to the resource recovery act would impact your members. And thirdly, do you have any specific problems with any of the legislative concerns? I’ll ask those couple of questions in the meantime for my colleagues.

Mr. Mike Chopowick: Thank you, Mr. Bailey. I think I’ll answer the question quickly by first saying that schedule—I’ll only refer to schedule 6 of Bill 159 here, by the way. As written, we support that legislation. I think what we’re referring to here—with respect to the composition of the board of directors, that’s something that’s not addressed by this legislation. Perhaps it could be, but most likely, the proper mechanism is the operating agreement between the Ministry of the Environment, Conservation and Parks and the Resource Productivity and Recovery Authority. There, in detail, it would stipulate how the board of the authority is composed. I think what I’m referring to here basically is that we don’t want to see an organization, for example, like Waste Diversion Ontario, where you had members on the board of directors from companies that are producing products that are being recycled, who work for municipal governments and even, quite frankly, from my own sector, the waste management and recycling sector. To use that old analogy, it’s putting the fox in charge of the henhouse.

When it comes to an administrative authority like RPRA, which is in charge of oversight and enforcing regulations, we need a competency-based board, with everyone on that board avoiding any real or perceived conflict of interest, because they set in place important programs on how—if you think of the used tire program, it’s a good example. We don’t want to see used tires being dumped into riverways and parks—another Hagersville tire fire, for example. We want to make sure those materials are collected and recycled. That’s why we need a board that’s clear of any conflict of interest.

Mr. Robert Bailey: Thank you. I’ll turn it over to my colleagues.

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

Mr. Mike Harris: I’ve got just a little bit of a follow-up to Mr. Chopowick on that, as well. In regard to RRCEA, obviously there’s some streamlining of activities, and cutting red tape has been one of our government’s prerogatives. I think we’ve done a really good job of that so far. Some of the pieces that fall into this would be allowing the minister to appoint a chair from among the members of the RPRA’s board of directors, remove the requirement to table the RPRA’s annual report in the Legislature, and enable the minister to request the disclosure of compensation information from among RPRA’s board of directors, officers and employees.

I was just wondering, Mike, if there’s any other red tape you think that we could clean up in regard to the way that this particular piece of legislation is run. I know it’s kind of putting you on the spot—but if you could provide us with some of those at this point.

Mr. Mike Chopowick: No, I don’t think so, Mr. Harris. I think everything that’s in schedule 6 is adequate. Of course, absolutely, when it comes to these types of programs that affect businesses in Ontario, anything that could be done to reduce any unnecessary administrative burden is very important and something we support. All those measures that you just described I think fall into that category, and we are supportive of those provisions.

When we talk about accountability, let’s just make sure we ask the question: Who is an organization like RPRA accountable to? It has to be accountable to consumers and taxpayers. It’s not meant or intended to be accountable to businesses or corporations or the Ontario Waste Management Association and other stakeholders like that. The title of the bill is “rebuilding consumer confidence,” and I think that if we stick to that principle, it will be an effective organization that does its regulatory oversight job.

Mr. Mike Harris: I think MPP Tangri has a question, Chair.

The Chair (Mrs. Nina Tangri): MPP Tangri.

Mrs. Nina Tangri: Good morning, everyone. I want to thank all presenters for joining us today.

My question is for Mr. Charbonneau. I really want to thank you for sharing your views with us today.

As you know, we’re proposing legislation changes that, if passed, of course, would improve Ontarians’ trust in

administrative authorities—we'll call them AAs from now on—and their accountability by enhancing certain requirements for most of them. The proposed amendments should be helping us update, harmonize and strengthen certain key accountability, government and transparency requirements.

I just wanted you to give me, in your opinion, an idea of which ones of the proposed changes in Bill 159 you consider to be most important and most relevant to your industry.

Mr. Trevor Charbonneau: Good morning. With respect to schedule 8, I think that 12.2 is very applicable, about giving access to the public to information. In my experience with this AA, the Bereavement Authority of Ontario, it's been the opposite—there has been no access to information when requested by consumers or within the industry.

Also, 5.1 and 5.2 deal with the ability to implement an administrator and have the administrator run the operations and oversee things. In this situation, in this climate that we have with this organization, I can't stress how important I feel this is. I believe that there needs to be something done—

The Chair (Ms. Goldie Ghamari): Thirty seconds.

Mr. Trevor Charbonneau: —as far as the oversight of the agency, as well as a review of the past conduct of it. Those are the main points that I feel would benefit the funeral industry from this legislation specifically—to this administrative authority.

The Chair (Ms. Goldie Ghamari): We'll now turn to the official opposition for the first round of questioning. MPP Glover.

Mr. Chris Glover: My question is for Julie Bellefeuille. I'm curious about the room that you're sitting in. You said you bought your house in 2016. Are you in that house now?

Ms. Julie Bellefeuille: Yes, I am in my house right now. This is our basement, and this was where we've had a lot of work done in this house.

Mr. Chris Glover: It looks like there's a crack in the wall behind you. I see wires hanging loose. I see exposed studs. So you've been in this house since 2016, and the basement is still in this kind of condition. Is that correct?

Ms. Julie Bellefeuille: Yes. We've been living in a house that has no insulation for three years now. What you see behind me, the pink insulation, is what protects the outside to the inside. Basically it's a foam, and that is it.

Mr. Chris Glover: You said that you had to pay when you bought this house—you were forced to pay for the warranty with Tarion, and it's an agency that you had described as having no transparency. You've made a list of \$700,000 worth of payouts that were not listed on the Tarion website. You said that it's a system that incentivizes the denial of payouts and that gives executives bonuses. How does it feel to be now four years into your house and having had to pay for a warranty with an agency that has, as you describe it, such a horrible reputation?

1130

Ms. Julie Bellefeuille: Again, just being in a house where basically you paid for a product, you handed your

money over, and they left and ran with it—this is the result of what we have to live. This is a nightmare. This is what my family has to go through. This is where my children live and have to see the dismay, the continuous fighting with an agency that was supposed to and was mandated to protect consumers, and it did not. We have the Auditor General's report to confirm that. We also have Justice Cunningham's report to confirm that.

There is a lot of information out there that clearly states that they've failed homeowners, and we are a true example. Our community is a true example. Many families continue to suffer the emotional burden that they have to carry on a daily basis, some who have had to stay in their homes during COVID-19 and breathe in mould is to me—no one should have to go through that, in general.

Mr. Chris Glover: So there's a bill before the House. Do you think this bill, as it's currently written, will prevent future consumers from going through the nightmare that you've gone through?

Ms. Julie Bellefeuille: No. It will not.

Mr. Chris Glover: There are a number of government MPPs on the panel. Is there anything you would like to say to them?

Ms. Julie Bellefeuille: I would like for every MPP—and thank you again for allowing me to speak—to really consider the trauma and the risk to consumers by not putting forth strong legislation. Bill 159 does not go far enough. Bill 169 that was proposed by the NDP is the only bill that will protect consumers, not the public interest of builders or developers.

Mr. Chris Glover: I'll pass to my colleague.

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

Mr. Tom Rakocevic: Thank you so much, Ms. Bellefeuille. Again, like I said to your husband, the two of you have been very brave, and without people like you we would just have infinite status quo. The system is certainly failing you, and you've been very eloquent in sharing what you've gone through.

Would you like to just briefly talk about, even from a personal perspective, what it has been like for your family—you have children—to have moved into this home, which I'm sure you thought would have been a dream come true, and to be where you are years later, where Tarion is sitting on hundreds of millions of dollars and you're still forced to be dealing with this?

Ms. Julie Bellefeuille: It has been a long four years, and going into five. You cannot even explain the emotional piece that comes with having to fight an organization that is Goliath. When you are a consumer and you are not being heard, and you have the burden of proof, everything is lengthy. Your children and your family are also part of this fight. For them to come home to a house that's completely dismantled is like walking in a crime scene every single day. That should not be what consumers have to go through.

Mr. Tom Rakocevic: That's terrible. I'm so sorry to hear this. Thank you for what you had mentioned about—there is in fact, yes, an alternate bill dealing with Tarion reform by the NDP opposition, and there have also been

amendments to this current legislation. One amendment was the immediate appointment of an administrator to take over Tarion to implement immediate changes. I know that the Auditor General has listed dozens of things that need to be fixed as soon as possible. We all know about Justice Cunningham's report. Do you support the immediate takeover by an administrator?

Ms. Julie Bellefeuille: Yes, I do. I spoke about it in January at the committee, and I spoke about it again today. I believe that the appointment of an administrator will be the only way there will be consumer protection. It needs to happen immediately. The administrator will be able to implement changes. Tarion, right now, through their lengthy processes and re-evaluation processes, are just not moving forward on many of the recommendations that the Auditor General has put forth.

Mr. Tom Rakocevic: I think I'm out of time. Thank you.

The Chair (Ms. Goldie Ghamari): We'll now turn to the independent Green Party member. You have six and a half minutes. You may begin.

Mr. Mike Schreiner: I want to thank all three presenters for coming in today and taking the time to share your views.

Julie Bellefeuille, I said this to your husband: I deeply feel for what you and your family have gone through. No one should have to go through what you're going through.

My first question will be for you, Julie. You mentioned that you were forced to pay for a Tarion warranty because there's no other option, but other provinces have adopted other models. British Columbia, in particular, has a multi-provider warranty system that injects a little competition into the system, rather than being a monopoly, but it is still overseen by the government. Do you think that type of system would work better than what's currently in Ontario and what will be perpetuated with Bill 159?

Ms. Julie Bellefeuille: Thank you for your question.

Yes, I do believe that a multi-provider model will actually allow for more accountability from the industry. When you look at Tarion right now, they are both regulators and they provide a backstop to the warranty that those builders should be providing. Many other provinces have a multi-provider model or something similar. We are talking about BC, for example. I won't go into a lot of details about it because I am not well-versed in knowing all the details, but there are organizations like Canadians for Properly Built Homes who have done extensive research on it, and it appears as though that model works very well in BC.

I did speak to it in my previous deposition to the committee in January. I encourage every MPP to read it, to go back to it and look at my deposition on why I believe that a multi-provider model would be very effective.

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

Mr. Chopowick spoke very eloquently of the need to avoid a conflict of interest in the appointment of a board of directors. Do you think the way the Tarion board is put together avoids a conflict of interest? That's for you, Julie.

Ms. Julie Bellefeuille: Many consumers feel that there is perceived and actual conflict of interest. First of all, when you look at the board composition, a lot of industry leaders are on the board and a lot of the board members have been directors at the Ontario Home Builders' Association, so the link between the industry and what they call a warranty backstop provider/warranty—however they present it—is really ineffective right now. It does not have the public consumer interest in mind. It has the public interest of the builders in mind. I really think that by allowing Tarion to continue its trajectory and bringing minimal changes, consumers will continue to fall through the cracks.

1140

Mr. Mike Schreiner: So I guess you would say that under this bill, as it's currently written, consumers will not be protected.

Failure of sound system.

Mr. Mike Schreiner: Oh, I think we—

The Chair (Ms. Goldie Ghamari): Yes, I've stopped the time here, just so we can deal with the technical difficulties.

Mr. Mike Schreiner: Thank you, Chair.

The Chair (Ms. Goldie Ghamari): If the connection issues continue, I would recommend that you turn off your video and just continue with audio only, but we'll try again. You can resume. You have two minutes left.

Ms. Julie Bellefeuille: Thank you. Sorry for that.

Thank you, MPP Schreiner, for your question. I will go back again and say that at the end of the day, allowing Tarion to continue in its model right now will not provide consumer protection. The fact that they are trying to separate the regulatory functions of Tarion and transfer it to HCRA is a conflict of interest, because previous Tarion board members are involved in this HCRA. I call it a parallel administrative authority. With Tarion still having the builder directory in their hands—

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

Ms. Julie Bellefeuille:—and not having the ability to have it removed from their hands, it does not allow for accountability at all, or transparency, and there is a true conflict of interest.

Mr. Mike Schreiner: I think we have very limited time, but I just wanted to quickly ask Mr. Trevor Charbonneau how often either your clients or operators have asked for Ombudsman oversight of the Bereavement Authority of Ontario. How much appetite in the industry is there for that kind of oversight?

Mr. Trevor Charbonneau: Yes, there's a lot of appetite in the industry for it. I was part of a coalition in support of alkaline hydrolysis, a form of disposition, and it was the coalition that approached the Ombudsman's office—

The Chair (Ms. Goldie Ghamari): Thank you very much. My apologies, that's all the time we have.

We'll now turn to the government for the second round of eight minutes of questioning. MPP Harris, you may begin.

Mr. Mike Harris: Julie, I'm a little disheartened, actually—I'll be honest with you—with some of the stories I've heard today regarding your specific situation. I was just quickly chatting with MPP Rakocevic here. Could we connect after this is done? I'd like to hear a little bit more about what has been going on specifically with your situation. I know this really doesn't have anything to do with the bill here today, but I would like to get a bit more info as to what's been going on with you and Tamarack specifically. If you wouldn't mind sending my office a quick email once we finish up, it's mike.harris@pc.ola.org. You can also just Google it. It should be pretty easy to find.

Could you give me a little bit more of a breakdown of some of the other issues? I know your husband was speaking to them before. I know there have been some radon issues. Give me a quick synopsis, if you don't mind.

Ms. Julie Bellefeuille: Thank you, MPP Harris, for your question and your concerns. It has been a very traumatic experience, to say the least. I'm sure my husband spoke about some of the issues that we've had. We have had many health and safety issues in this home and we've had structural defects—major structural defects. There is a difference between structural defects and major structural defects. We presently have 19 foundation cracks. We have had mould, radon, framing issues, building envelope issues, water infiltration, and the list goes on—

Mr. Mike Harris: Sorry to interrupt. When you speak about major structural defects versus regular structural defects, what are they defining as major versus just regular run-of-the-mill stuff?

Ms. Julie Bellefeuille: A major structural defect, according to Tarion's definition, is anything related to soil settlement. I haven't done all the research on what they consider in every aspect. I'm just basically speaking about—

Mr. Mike Harris: What about in your specific case?

Ms. Julie Bellefeuille: In our case, we've had a lot of issues, and I wish I could speak more on it, but I would rather speak privately on the issues so that it is not recorded in Hansard, in the event that we need to move forward in a different direction. As I said previously, the \$300,000 that Tarion provides for consumers may not be enough for some, and we may be moving in a direction in which we have no choice to move.

Mr. Mike Harris: That was going to be another question I was going to ask you off-line. I think I know what to infer from that, so I'm going to pass it over now to one of my colleagues.

The Chair (Ms. Goldie Ghamari): MPP Nina Tangri, you may begin.

Mrs. Nina Tangri: Thank you once again to the presenters for coming and joining us today.

My question is for Julie, and I know you've been asked a lot of questions today, so thank you. I certainly appreciate what you've gone through. It's quite devastating when you make the largest purchase of your lifetime to find that there are significant defaults.

I just wanted to touch a little bit on the multi-provider. I know many people who have come forward as consumers would rather have seen a multi-provider rather than just Tarion. I do come from the insurance industry, which is why I have a little bit of knowledge on this. It certainly is one of the things that we were looking at, similar to the BC model, but the one issue you face always when you have insurance providers is that they have choice on whether to insure or not and they have choice on premiums. That was one of the reasons that it would potentially not work in this situation. We wanted to make sure that we had a strong organization, and so we wanted to ensure that Tarion, as it was before, was significantly changed into what is being proposed right now. And it has not ended, of course; that's why we're listening to a lot of what we're hearing today.

I just wanted you to come back and talk a little bit about that. You've obviously looked at the BC model and how they've been using the multi-provider way of doing that, as we've heard, but there have been issues with that provider, as well. Many small builders, perhaps, wouldn't even get coverage at all, which would leave consumers with no coverage.

Ms. Julie Bellefeuille: Thank you for your question.

1150

The BC model allows for consumers to have a choice in their provider. Ontario's model right now is that it is a mandatory warranty that needs to be purchased. You have no choice. As a consumer, I should have the choice and the ability to make a decision on who will backstop my builder's warranty. It becomes the builder's responsibility to make sure that they build properly from onset, and it becomes the insurer's responsibility to make sure that the builders are building quality homes—

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

Ms. Julie Bellefeuille: —that measure to the Ontario building code. Presently, no one should be living in homes that have code defects.

As you may know, insurance providers will do their homework. They will make sure that if they are going to insure a builder, that builder is doing what they're supposed to do. Right now, with Tarion being a regulator and having a directory that is far from providing consumers with valuable information before they make a purchase and decide on who is going to build their houses—again, I think that even if it's one provider, like the PCs are right now saying is the best model. I still continue to believe that the multi-provider model will allow—

The Chair (Ms. Goldie Ghamari): Thank you very much. I'm sorry for having to cut you off. Your time is up, but you may be able to continue your comments.

Ms. Julie Bellefeuille: That's okay.

The Chair (Ms. Goldie Ghamari): We'll now turn to the official opposition for the final round of questioning, for eight minutes. MPP Rakocevic.

Mr. Tom Rakocevic: My first question will be to Mr. Chopowick. Would you say that currently, in the delegated authorities of interest to you—do you believe that there are conflicts of interest right now on such boards in Ontario?

Mr. Mike Chopowick: Actually, with the authority that I was speaking about today, the Resource Productivity and Recovery Authority, the answer is no. The board of directors of RPPRA appears to be a very competency-based board. We currently don't observe any conflicts of interest, either real or perceived—and there is a change in this bill that allows the minister to appoint the chair from amongst members of the board; of course, board members are appointed by the government.

So that's our message here today: We want to make sure that when this legislation is passed and there are new provisions in place, those conflicts of interest can continue to be avoided.

Very quickly, I'll use an example. You buy tires for your car, you use those tires and you take them to the shop to be replaced. What happens to the old tires from your car? You want to have confidence that those tires are collected and recycled and processed in accordance with the used tire regulations under the Resource Recovery and Circular Economy Act. But let's say, for example, that your tires are made by ABC Tire Company. How confident would you be that that's going to happen, if the CEO of ABC Tire Company is on the board of the authority that's in charge of overseeing that program and enforcing compliance with the regulation? I'm not saying the program wouldn't work, but there would be a perceived conflict of interest, and perhaps consumers wouldn't be as confident that the system works properly and that the recycling regulations are complied with.

That's what we want to make sure of—that any provisions that are in the operating agreement prevent any sector-based members and stakeholders from serving and being appointed to the board of directors or as chair.

Mr. Tom Rakocevic: A lot of the conversation around this omnibus bill has been around Tarion reform, based on what you're saying, since there is a large amount of builder influence on Tarion. I guess my interpretation of what you perceive the conflict of interest to be is how Tarion operates.

My question is to Mr. Charbonneau, and it's a similar question. Do you believe that there are any conflicts of interest in the delegated authorities of interest to you? And a further question: Would you like to see greater Ombudsman oversight of all delegated authorities?

Mr. Trevor Charbonneau: I do see a few conflicts of interest on the current delegated authority that I was referencing, the Bereavement Authority of Ontario. There are a couple of board members who are from within the industry. There is a vice-president of a large funeral corporation in Toronto on the board of directors, who is also on the committee that determines the compensation of the CEO and the registrar. If that's not a conflict of interest, I don't understand what is. To have somebody within the industry responsible for the annual performance review and compensation of the gentleman who regulates that person is a huge conflict of interest.

I would say that across the board, I think there should be more oversight for these agencies. I think they were set up in a way that was not very friendly to not only industry,

but especially to consumers. They were untouchable, and there just needs to be more transparency and more accountability to all of these agencies.

Mr. Tom Rakocevic: Do you believe that the bill, as tabled, goes far enough in dealing with these conflicts of interest?

Mr. Trevor Charbonneau: I would like to see a little clearer language put in regarding the board of directors. As previous presenters have said, the lack of conflict of interest or even the perception of conflict of interest isn't there, so I think there needs to be a little more specific language put into the bill, to ensure that the composition of these boards remains as neutral as possible from within the industry.

Mr. Tom Rakocevic: I'd like to go back to Ms. Bellefeuille. Again, is the current system of Tarion working? Home warranties—is it working?

Ms. Julie Bellefeuille: To answer your question: No, it is not working.

Mr. Tom Rakocevic: This bill, as presented: Will it fix, from your perspective—and this is the perspective of someone who has lost so much time and money in fighting Tarion. Does this fix home warranties in Ontario, as perceived?

Ms. Julie Bellefeuille: No, it does not.

Mr. Tom Rakocevic: So you believe that there is more change required, and you believe that if the government proceeds as is with Bill 159 and passes it, it does not fix the situation right now for many new home purchasers in Ontario?

Ms. Julie Bellefeuille: Yes. As I said earlier and previously, Bill 159 does not go far enough. Bill 159 will not protect consumers. The only bill that will protect consumers of newly built homes in Ontario is Bill 169.

We are the living experience. Our community has been devastated by all of what has happened, and we are a true testimony to all of the MPPs who are here today and those who were in the committee in January of what Tarion has failed to do.

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

Ms. Julie Bellefeuille: Tweaking it is not going to help, and that's what Bill 159 does. It only tweaks. It's only looking at certain things. There is still conflict of interest. There is still perceived conflict of interest, a lack of transparency, loopholes, and the list goes on. We are dealing with that right now. It's just a matter of using different tactics at different times. Yesterday, those tactics are not being used, but today, other tactics are being used.

In the end, as consumers, we have a right to be protected—

The Chair (Ms. Goldie Ghamari): My apologies. That's all the time that we have. It is now almost 12 o'clock.

I'd like to thank the presenters for joining us this morning, and also the committee for participating. It was a very informative discussion.

At this point, the committee will recess, and we will resume at 1 o'clock. Thank you.

The committee recessed from 1200 to 1300.

The Chair (Ms. Goldie Ghamari): Good afternoon, everyone. I call this meeting to order. We are now resuming our 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.

Just to do a bit of administrative work, we have a new MPP with us, so I'd just like to confirm: MPP Pettapiece, can you confirm that you are present and that you are in fact MPP Pettapiece?

Mr. Randy Pettapiece: Yes, it's MPP Pettapiece. I'm present.

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

Mr. Randy Pettapiece: Listowel, Ontario.

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

MRS. GAY VIECELLI
MS. BARBARA CAPTIJN
CANADIANS FOR PROPERLY BUILT
HOMES

The Chair (Ms. Goldie Ghamari): This round of questions will begin with our three presenters. We have Gay Viecelli, Barbara Captijn and Karen Somerville from Canadians for Properly Built Homes. Each presenter will have seven minutes for their presentation, followed by a round of questioning from the committee members.

At this point, I'd like to call upon Gay Viecelli to please state your name for the record, and then you may begin. You will have seven minutes.

Mrs. Gay Viecelli: Good afternoon, Chair and members of this standing committee. My name is Gay Viecelli. Although I am puzzled by Bill 159 being on the agenda of two different standing committees within five months of each other, I appreciate the opportunity to present because change often follows dialogue.

Because of my own terrible experiences with Tarion and with the Licence Appeal Tribunal, I have been an active supporter of Canadians for Properly Built Homes since 2005. This organization was founded in 2004 and has worked continuously for a new home warranty which actually protects Ontario new home buyers.

If the current government proceeds with Bill 159, there are many issues which need to be addressed. I will point out three such issues. The first is in the section entitled "Administrative agreement," 2.0.1. The wording, "promoting the protection of the public interest, and consumers in particular," should be replaced with "promoting strong consumer protection." The legislation should clearly state at the outset that this is consumer protection legislation and that its main objective is to deliver strong home warranty protection to new home buyers.

Conflicts of interest is the second issue. It is essential to avoid conflicts of interest, real or perceived. Therefore, builders and industry representatives should not be on the board.

On the blog Consumers' Reform Tarion, Professor Macfarlane of the University of Windsor's faculty of law commented, "The history of Tarion has created enormous mistrust for homeowners. The lack of an independent dispute resolution option here—and the failure to even recognize this issue—means that there is no credible impartial party ... for homeowners to appeal to for dispute resolution." Therefore, this is the third very important issue that needs to be addressed.

On February 15, 2018, prior to his election, Doug Ford tweeted, "Government should not have a monopoly on any business." There were many Conservative MPPs who, when in opposition, publicly supported ending Tarion's monopoly. I urge this Conservative government to take advantage of this incredible opportunity to remove the burden placed on Ontarians over four decades ago by Bill 94, the Ontario New Home Warranties Plan Act, 1976.

Prior to the passing of this bill, in an article printed by the Globe and Mail, Jacob S. Ziegel, a professor of law at the University of Toronto, wrote, "What is without precedent in Ontario consumer protection legislation is the nature of the body entrusted with the administration of the important powers...."

"For it is not the Ministry of Consumer and Commercial Relations or any other government agency that is entrusted with the task. It will be a non-profit corporation of undetermined composition incorporated under the Ontario Corporations Act and at best only indirectly accountable for its actions to the Legislature." Tarion is this body cited by Professor Ziegel.

From 2015 to 2017, Justice Cunningham consulted on an extremely comprehensive review of the Tarion Warranty Corp. and the new home warranty program it administered. In his final report he stated, "Warranty coverage would move from today's monopoly with Tarion as the only provider to a multi-provider insurance system." The warranty coverage could be an insurance product.

On January 3 of this year, the press secretary for Minister Thompson told the magazine Canadian Underwriter, "After extensive consultation with Ontarians, and research within the ministry, it was clear that in order to achieve our goal of increasing consumer protection, the best option is to overhaul the current new home warranty model."

If this government truly wants to rebuild consumer confidence, transparency is a must. Ontarians deserve to see the data on which Minister Thompson based her decision to overhaul Tarion, rather than to end its monopoly. A lot of time and money was spent on Justice Cunningham's study and our Auditor General's special audit, yet fewer than five of a total of 69 recommendations have made it into legislation. Can't we do better?

Finally—

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

Mrs. Gay Viecelli:—why not give more consideration to MPP Tom Rakocevic's Bill 169, Home Warranties to Protect Families Act, 2019? British Columbia's multi-provider insurance system seems to be working well. Unfortunately, I don't have the time to share details with

you, but the BC Homeowner Protection Act and regulations are only a click away.

Thank you for your consideration.

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

We'll now turn to our next witness. Do we have Barbara Captijn here?

Ms. Barbara Captijn: Yes.

The Chair (Ms. Goldie Ghamari): Thank you. Please state your name for the record, and then you may begin. You'll have seven minutes.

Ms. Barbara Captijn: My name is Barbara Captijn. Good afternoon, committee Chair and members. I became a consumer advocate about 10 years ago, after my own unfortunate experience with Tarion and a licensed builder. I hope you have read my deposition on Bill 159, which I made in January of this year to the justice committee. I proposed at that time two amendments, but I see that you've accepted no amendments at all to this bill. I would like to reiterate why the amendments are important and add further explanation.

Dispute resolution is one of the main areas of complaint about Tarion. It is not impartial, it is not independent and it is not transparent. Consumer distrust of Tarion is at an all-time high level, amplified by the Auditor General's report which showed Tarion executives were incentivized to deny claims. Tarion did not fix many of the defects which were under warranty. Tarion gave builders disproportionate influence over their operations and did not report many defects on the builders' records.

Unfortunately, nothing in your Bill 159 gives us any confidence that you have fixed these problems. There are at least two remaining serious conflicts of interest remaining in Tarion's dispute resolution processes. One of them is that Tarion investigates and adjudicates claims, while at the same time holding the strings on the payouts. This is a conflict between protecting the warranty fund and giving consumers their rightful compensation.

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The second conflict inherent in Tarion's dispute resolution process is the fact that—in the Tarion review, Judge Cunningham stated that the same entity should not be at the same time investigating claims, adjudicating them, attempting to resolve them and then deciding what should or should not be done. This is an inherent conflict of interest, and it gives too much power and discretion to the monopoly and too little information to the consumer.

Minister Thompson has told us recently that Tarion will now be able to use a wide range of dispute resolution processes, but they've always had this ability. Why haven't they used it? Why are we all here now? They have always had the authority to make their own regulations. I have here the 1976 governing legislation, which says that they've always had the ability to use arbitration. To my knowledge, they never have.

You're asking us again to trust Tarion, but you've given us no grounds upon which to believe this. You've left 95% of the staff at Tarion still the same, you've promoted several executives who were architects of the claims denial culture to more senior positions and you've not

appointed four consumer advocates to the board, as you promised you would do in March.

Former PC critic for the ministry MPP McDonnell said in Hansard on December 6, 2017, "You cannot have a truly impartial warranty system without an independent adjudicator." That's the problem in a nutshell.

Minister Thompson will say that she's now given government the ability to prescribe dispute resolution bodies other than the Licence Appeal Tribunal. But at the same time, the ministry is telling consumers they don't want to get involved in individual cases, and they send these cases back to Tarion. So how do you at the ministry find out what's going on? There is still far too much discretion and autonomy left in the hands of this monopoly, which is Tarion, a continuing lack of transparency, a lack of impartiality and independence in dispute resolution and, therefore, low credibility with consumers.

Justice Cunningham said that disputes should be solved in the following way—this was again quoted by your colleague PC MPP McDonnell on December 6, 2017. I quote from Hansard: "Justice Cunningham laid out a well-thought-out framework. When disputes with the warranty authority arise, the matter would be referred to independent dispute resolution, and the appointed mediator or arbitrator would be able to hire an independent expert to ascertain the facts around the claim and have the costs borne by the authority."

All of the PC MPPs agreed with this while they were in opposition, but you've left us with the same problem we all came to the table to solve in the first place. Bill 159 does not solve any of these conflicts of interest. So I propose two amendments: number one, the immediate appointment of an independent administrator to assume immediate control over Tarion and its activities, as is supposed by the NDP's Bill 169; and second, a purpose statement in your Bill 159 which clearly states that the purpose of the bill is consumer protection, not "the public interest," which will be morphed and manipulated by Tarion and industry players to serve their own interests, which is exactly why we're all here to begin with.

We've got to stop this tinkering around the edges, half measures and trying to convince us that things have changed at Tarion just because you say so. We don't buy it—

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

Ms. Barbara Captijn: Thank you.

The Chair (Ms. Goldie Ghamari): You're finished? All right.

Ms. Barbara Captijn: Well, I thought you were telling me to finish. Did I misunderstand?

The Chair (Ms. Goldie Ghamari): Well, you have one minute left. I always give a one-minute—

Ms. Barbara Captijn: Oh, I see.

The Chair (Ms. Goldie Ghamari): Yes. I paused the time and I'll give you one minute.

Ms. Barbara Captijn: I would just like to finish my point on the purpose statement. There has never been a purpose statement in the Tarion legislation, so that lawyers and Tarion and builders have been able to manipulate it to serve their own interests from time to time.

The bill has to clearly state that the purpose of this legislation is consumer protection, full stop. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much. We'll now turn to our next presenter: from Canadians for Properly Built Homes, Karen Somerville. Please state your name for the record and then you may begin. You'll have seven minutes.

Ms. Karen Somerville: Karen Somerville. Thank you for the opportunity to meet with you today. I'm the president of Canadians for Properly Built Homes. CPBH's work is focused on consumer protection for Canadians regarding the largest purchase most of us make, a home. CPBH has communicated with thousands of consumers in our more than 16 years of operation, the vast majority of these people from Ontario.

I presented regarding Tarion and Bill 159 in January. I hope you had a chance to read my deputation. In that deputation, I shared a little bit about Daniel Browne-Emerly's tragic situation and his desperate attempts to reach a settlement with Tarion. Daniel has authorized me to provide you with an update today. Daniel was finally able to reach a settlement with Tarion. However, to get that settlement, Daniel advised that he was forced to sign a non-disclosure agreement. Yet Tarion's CEO says, "Tarion does not require non-disclosure agreements from homeowners in order to reach settlements." That's from the current CEO of Tarion, in an email dated June 2 of this year. Why did Daniel have to sign a non-disclosure agreement with Tarion?

Today, I'm going to tell you a little bit about another Ontario family that purchased a newly built home: Tracy Wheeler, Mark Mitchell and their two children. In the package that I have provided to you, you have a photograph of them. The following was written by Tracy Wheeler:

"CPBH has helped my family navigate a broken home warranty process. Our newly built home had multiple OBC violations, mould and airborne mould. Our daughter had become asthmatic and required numerous medications to manage. Due to these serious OBC violations, we had racked up \$140,000 in debt with lawyers and engineers—and we were desperate. Then CPBH got involved—sat with us, listened, advocated to MPPs, and directed us to various sources to push for movement and supported us through our new home crisis.

"Without CPBH I don't think our home would have been repaired as CPBH helped every step to move things forward. We could not have stayed another winter in our home. Our home has now gone through extensive repairs costing over \$250,000, and we are now back in our home happy to report our daughter's health has improved dramatically. It has been a nightmare and we didn't have to go it alone. CPBH's work is important as families and homeowners are at the brink of losing everything, in a financial, mental, medical and emotional crisis, desperate to have home warranty issues resolved. The entire process is overwhelming and exhausts the homeowner—placing the burden of proof of OBC violations on the homeowner ... a system stacked against the homeowner who did

nothing wrong but to buy a home from a Tarion-approved builder."

By the way, that family lives in MPP McDonnell's constituency.

What does this example have to do with Bill 159? Everything. It is another tragic example of the need to ensure the Ontario building code is enforced during construction and, when it is not, of the need to take swift action to ensure that proper repairs are made. Tarion finally awarded this family a substantial financial settlement, but nothing appears on the Tarion builder directory for this builder. Why is that?

We at CPBH wish that we could help all families get out of their newly-built-home tragedies and get on with their lives, but CPBH is run by volunteers on a shoestring budget. Obviously, we can't do this for all families who desperately need help—and there are a lot of them. That's where you as MPPs come in. We need strong consumer protection legislation to make sure that no family ever has to go through this again.

About Bill 159 specifically, we have two major concerns: It does not nearly go far enough to provide adequate consumer protection, and it's taking too long to address the serious issues with Tarion. Ontario needs what MPP Rakocevic laid out in his Bill 169. That delivers on what Justice Cunningham recommended in 2016 and more. Ontario needs a multi-warranty-provider model. Research shows that competition is a critical driver of performance and innovation. Research also shows that competition encourages lower prices, better products and better service.

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CPBH asked all political parties before the last election what they would do if elected. Former PC MGCS critic MPP McDonnell responded on behalf of then-interim leader Fedeli. Here is an excerpt of his response: "We are on the record advocating for more flexibility in the new home warranty market and ... we remain strongly in favour of legislation that would make these changes possible ... allowing the government to prescribe acceptable alternative plans from licensed insurers...."

Before the 2018 election, the PCs responded that they agreed with ending Tarion's monopoly. Why has this not been reflected in Bill 159? Why has Minister Thompson refused to provide her research that she says shows that a monopoly is better for consumer protection? Why has Minister Thompson not been willing to meet with CPBH for a substantive discussion since she became minister?

Minister Thompson and her predecessor, Minister Walker, have both referred to Tarion as broken. Many have concluded that Tarion is beyond repair, and CPBH agrees with that conclusion.

A QP Briefing article reported on May 21 of this year, "Six new board members were quietly named to home warranty provider and home builder regulator Tarion in March and April, a change that came without an announcement or press release.

"Four of the six new board members have ties to the development industry, while another member is former PC MPP Peter Shurman."

The Chair (Ms. Goldie Ghamari): You have one minute left.

Ms. Karen Somerville: Why did the majority of new home Tarion board members have ties to the development industry? Where are the consumer representatives that parliamentary assistant MPP Bailey promised? Where is the complete overhaul that Minister Thompson has promised?

When MPP Bailey responded to MPP Rakocevic on March 5 about conflict of interest on the Tarion board, MPP Bailey implied in his response that Minister Thompson is willing to accept conflict of interest on boards. With respect to MPP Bailey, conflict of interest on boards is unacceptable. With respect, builders should be held accountable through legislation and regulation, not board seats that put them in conflict-of-interest situations.

It's important to note that an estimated 120 families have been forced by law to purchase Tarion's broken warranty since this government came into power two years ago. Thank you.

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

At this point, this round of questioning will begin with the official opposition. You'll have eight minutes. MPP Rakocevic.

Mr. Tom Rakocevic: Thank you very much, presenters—very, very powerful words. I'm going to be moving to questions to each of you.

I'd like to begin with Karen Somerville from Canadians for Properly Built Homes. Your association, you and so many individuals like you have been providing very important information as stakeholders to the past government, to MPPs, to people who have the ability to make change. I sat and listened with interest when you read out what the government seemed to be positioning themselves to do prior to their election.

With respect to the experience and the knowledge and what you've been able to do for home warranties in this province, do you feel that this government and the minister has given you proper time to discuss what changes you see? Do you feel heard?

Ms. Karen Somerville: Absolutely not. Minister Thompson has not been willing to meet with us. She gave us a half-hour introductory conversation back in the fall. It seemed positive. We were told we would have more time with her. We have followed up repeatedly. We have not had more time with her. We need conversation. We need dialogue. To have to resort to emails and letters and registered letters is really not productive.

In January, in Ottawa, a representative from the Consumers Council of Canada presented and when asked about Tarion, he said something to the effect that he didn't know anything about Tarion and that they should be speaking with me at CPBH. CPBH would love to have a conversation and would love to tell our perspectives and our experience, but we just haven't had time from Minister Thompson, unfortunately. We don't understand it. She seemed so pleasant and interested at the outset.

Mr. Tom Rakocevic: Do you feel, as a stakeholder, that the opposition has heard what the people that have

come to you for help are looking for in true home warranty reform? Do you feel that the opposition has listened? Do you feel the amendments that we've tabled when this was at first reading is in spirit with what you're looking for?

Ms. Karen Somerville: Absolutely not. When we had a chance to meet in person, we felt some body language that seemed positive. We saw nodding. We heard comments that seemed interested and concerned. But yet, nothing has been changed regarding these two schedules. Since those province-wide consultations in January, you and your party have put forth six or seven amendments. None of them were accepted. We agreed with those amendments. We just don't understand what the disconnect here is.

Our volunteers spend their leisure time trying to help people navigate this system. We hand-delivered a letter to all PC MPPs last August about some homeowners expressing the possibility of suicide. The only response that we had to that hand-delivered letter to Queen's Park last August, to all PC MPPs, was from the Premier himself, who said, "This is Minister Thompson's job. Go talk to Minister Thompson."

It's shocking to us that we are repeatedly raising concerns about families desperate—desperate—and we continue to take concerns about suicide, referring these people who are expressing such dire concerns to the officials who can help. We're not experts, obviously, in suicide matters, but it's desperate for so many people on so many levels. We just don't understand why there is this disconnect here. The PCs were supportive before the election, but we just feel that we're not being heard. Quite honestly, we feel—many of us, anyway—that we're being stonewalled and shut out. It's tragic.

We're all volunteers. We need help. That's what I tried to convey in the Wheeler-Mitchell story today, the hours and days—weeks, actually—that went into helping that family. We were honoured to do that, and we're so pleased that they've had a resolution and that their sick child—MPP Gates was also involved in this, and MPP McDonnell did something behind the scenes; I'm not sure what he did. But that family had to go through a desperate situation for many years, and it's just not right.

You heard the Bellefeuille's this morning. You've heard about Daniel Emery. Daniel Emery is now a dying man, and his oncologist is suggesting that it's because there was mould in his home. You're hearing very, very desperate situations, but there are so many others that need voices as well. We need help.

Mr. Tom Rakocevic: Yes. Yes, you do.

My next question is for Barbara Captijn. Ms. Captijn, we just heard from Ms. Somerville that when the government was in opposition, they seemed to be wanting to go somewhere with Tarion reform. It seems that you're not satisfied with this current bill. Were you hopeful for real change at the outset, at the change in government? We know this last government was there for 15 years. There was lots of disappointment under new home warranty reform. Why don't you tell us what it was like for you, as someone who has been an advocate for so many years, and

if there was a sense of hope, and how you feel today with where we're at?

Ms. Barbara Captijn: There was hope, because we listened to debates in the Legislature where PC MPPs were right on message with our consumer advocates by saying, "The Liberals are not taking enough action. They're not solving the issues in their particular Bill 166"—which they brought in late December 2017. Prominent PC MPPs are on the record, and I quote them in my deposition here, saying, "We need to move to a multi-provider system. We need to have choice in the way that disputes are resolved, independence and impartiality." I have several quotes from prominent MPPs that I drew from the Hansard record.

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

Ms. Barbara Captijn: You look at what the PC MPPs said then and you look at what they're doing now, and it's night and day. It appears that they've come under the influence of industry players and that political expedience has taken over this Bill 159. It is simply not what they were proposing when they were in the opposition. We find that that is an about-face, and it's a betrayal of consumers.

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Mr. Tom Rakocevic: Thank you very much for that answer, and I will be asking Ms. Viecelli questions on the next go-around.

The Chair (Ms. Goldie Ghamari): We'll now turn to the government for eight minutes of questioning. MPP Bailey, you may begin.

Mr. Robert Bailey: Thank you to all the presenters today.

One thing I wanted to get on the record: I'm going to check Hansard myself, but I don't think I ever implied that the minister would tolerate a conflict of interest on that board. Anyway, I'm going to check on that. I personally don't support that, and I'll be speaking to you directly about that, if I find that's incorrect.

The other thing I wanted to talk about: We've talked a number of times about the multi-provider insurance. The studies that I have seen that we have done through the ministry tell us that there are still issues in British Columbia with the multi-provider system. There's always been concern that if you went to a multi-provider, it's fine for the big players in the market, but smaller builders could have trouble and difficulty even providing insurance, which could drive up the cost of homes.

We made a number of changes in Bill 159. Are they everything that the people in the opposition and all the presenters have asked for? No, not yet. But I know we're moving down that road: an ombudsman, and we also changed the board—no more is there a majority of builders on the board; that has been reduced—and also the administrative changes, where they could have the dispute resolution.

Anyway, that's my point, if someone would like to comment on that. I know my colleagues have some questions, as well.

Ms. Barbara Captijn: May I comment on MPP Bailey's comment from a moment ago?

The Chair (Ms. Goldie Ghamari): Yes.

Ms. Barbara Captijn: MPP Bailey, I've heard several times that you and your colleagues have said that if one were to go to the multi-provider model, smaller builders would not be able to get insurance. I've spoken to senior members in the insurance industry, and I've spoken to people who are active in the multi-provider model out west. There's no justification for that at all. There are insurers who specialize in insuring small builders. That's their expertise. So it's just not true, what you and your colleagues have said several times, that the multi-provider model would perhaps not insure smaller builders.

Let me tell you, as consumers, we don't want shoddy builders and the crappy builders to get insurance. That would be a sort of built-in consumer protection for us. Why should a builder who has a poor record get insured by Tarion time and time again and his record be hidden from the public's eyes? That's what we want to prevent.

A senior member of the insurance industry told me, "Look, we're in the business of risk prevention. We will assess the risk of these shoddy builders. If they are not going to perform properly, we won't insure them." MPP Bailey, that's a good thing. Don't you agree with me? I don't want to buy a house from a crappy builder again, nor do you, nor do you want anyone in your family to do so.

I really believe we have to further look into that. It's just not true that smaller builders don't get insurance, and it's not true it would drive up the cost of homes. Look at the Bellefeuilles' house and how Tarion has driven up the cost of their home. It is not true that smaller builders would not get insurance.

By the way, I heard personally in your ministry's consultations one of the top people in the home ownership authority in British Columbia say on the record to your ministry, the Ministry of Consumer Services, in March of last year that the BC system is "working quite well." Builders and homeowners have an incentive to resolve disputes earlier because they don't want them appearing on the record, they don't want publicity or litigation, and he said that that system is working quite well.

What I want to ask you is, what happened to these particular facts that came out in your ministry's consultations? Where are they? They seem to have fallen into a black hole somewhere. I was at a lot of those consultations. I was at two of them; at one of them personally. There were some very positive points that came out for the multi-provider model during those consultations, which your ministry did. Why don't you be transparent and show us where you get all this negative feedback about the multi-provider model? We don't see it, and your ministry won't show it. The minister won't show it to us. Don't you think there's something wrong with that?

Mr. Robert Bailey: I'll yield to my colleagues who have some questions.

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

Mr. Daryl Kramp: I recognize that Karen Somerville wanted to respond, so I'll try to leave a few minutes for her to respond to my question, as well.

To all of the presenters today: Our job is to try to find that effective balance. It's always a challenge when we have industry, we have agencies, we have municipalities,

we have jurisdictions, and of course, more importantly, and most importantly, the homeowners themselves. It is a serious challenge, and we recognize that. I certainly appreciate your passion and your tenacity to be able to follow through on what you believe to be tremendously important. All I can assure you is that your thoughts are extremely important and your notes are extremely important.

Dr. Somerville, going forward, the regulatory portion of this bill is going to be extremely important, I think, as you know. The bill itself is a bit more general, whereas the regulatory is very, very specific. You made a number of recommendations on that regulatory note. Could you perhaps prioritize a few of them for us in the short period of time we have left?

Ms. Karen Somerville: A couple of things about legislation versus regulation: You are an expert in this area; I am not. I have talked to a lot of people over the years, including Justice Cunningham, and what we have been told and what I now have come to believe is that there are certain principles that need to be established in the legislation itself, not left to regulation.

The first one that I would speak to—and a number of your presenters today have commented on this—is the focus of this legislation itself. It needs to be focused on consumer protection. The current wording says “promoting the protection of the public interest.” This is supposed to be about increasing consumer confidence and consumer protection.

The Chair (Ms. Goldie Ghamari): Forty seconds left.

Ms. Karen Somerville: So I again, on behalf of our organization, really strongly request that it’s focused on consumer protection, not the public interest. That’s number one.

Secondly, you’ve already heard a lot today and previously about the board composition. We echo that again. We think that needs to be very clear in the legislation. Conflict of interest is never acceptable on boards. I hold a designation in board governance, so I do have some knowledge of this. To have builders on this board is clearly a conflict of interest. Builders do have an important voice—I want to be clear on this—but builders should be providing their voice through a builders’ advisory council. Right now, it’s the wrong way around. You have a consumer advisory council—

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

We’ll now turn to the independent Green Party member. MPP Schreiner, you have six and a half minutes. You may begin.

Mr. Mike Schreiner: I want to thank all three presenters for coming today and for your passion on this issue, particularly as volunteers.

I know that both Justice Cunningham’s report and the Auditor General’s report were a pretty damning indictment of Tarion. I’ll ask this of all three of you: Do you feel that this bill addresses the concerns that both the justice and the Auditor General raised in their reports?

Barbara, you can start.

Ms. Barbara Captijn: Well, no, it doesn’t. It doesn’t address the 37 recommendations in the judge’s review. I

recently did a fact-check, which I think you saw on Twitter. I went through all 37 recommendations to see which ones the government had implemented. I found one. I don’t know if anybody else has had a chance to read that.

On the auditor’s report: I find it astounding that there were 32 recommendations of the auditor, and Tarion said, “Oh, yes, we agree with all of them. What a great idea for self-examination. We agree with them all.” But where were they before? Many homeowners have suffered. It’s disingenuous to say, “Oh, yes, what a great idea”—32 of them. But none of those 32 recommendations have made it into this Bill 159. Show me one.

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Mr. Mike Schreiner: Gay, would you like to comment on it?

Mrs. Gay Vicelli: Yes, I would like to comment.

I personally am very disappointed in this bill, because it’s trying to put one or more band-aids on the legislation rather than just dispensing with the Tarion monopoly. The multi-warranty provider model, especially the one in BC which seems to be working quite well, isn’t perfect. There are problems with it as well, but not nearly the issues that we have with Tarion. I want to see a multi-warranty provider. No more band-aids, please.

Mr. Mike Schreiner: I agree.

Karen, I’m going to let you answer next. I’m going to ask, in your answer, if you could point out the important distinction between consumer interests and consumer protection, because to some people watching or reading Hansard, it may just seem like a slight word shift. Can you talk about the importance of that principle?

Ms. Karen Somerville: Yes, absolutely. The language in the bill currently is promoting the “public interest.” We’re advocating for “consumer interest” or “consumer protection.” “Public interest” includes builders and the development industry. You’ve heard already today—I listened to what you heard this morning—about how complex this is. We know that the development industry wields a lot of power. They have money for big industry lobbyists etc. They’re able to get access.

I was asked earlier about Minister Thompson and whether we had time with her. We saw Minister Thompson on Twitter a couple of weeks ago meeting with the OHBA. Congratulations, OHBA: You got time with the minister. Consumers aren’t getting time—at least, consumers I know are not getting time with Minister Thompson. The builders and the industry have plenty of avenues to get to the people at Queen’s Park; consumers do not.

We know that this is the largest purchase most people make. You’ve heard today about the suffering, and there is lots of it.

To answer your question, MPP Schreiner: “Public interest” includes builders and various industries. Consumers are all alone here. We need a champion. We need strong consumer protection.

I would refer you to Senator Ringuette, a federal senator. A couple of years ago—I’ll send you an excerpt

of one of her speeches at a consumer protection conference—she talked about how poor consumer production is in Canada generally, and we are certainly seeing that. CPBH is across the country. I have files in my office from different provinces; the mountain is from Ontario. There are problems elsewhere. As Gay said earlier, there's no perfect model, but we firmly believe that the multi-provider model is the best option.

I hope I answered your question on distinguishing between public interest and consumers.

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

Mr. Mike Schreiner: You did. Thank you for that. I think it's an important distinction that some people may not fully understand.

MPP Kramp talked about balance. Do you think this bill balances consumer interests and, let's say, the public interests appropriately?

Ms. Karen Somerville: Absolutely not. We are not seeing enough evidence. We monitor as best we can, given that we don't have access, what is going on there. We do not feel that consumers are being heard, that this bill does enough for consumers. It's a tiny step forward. After 44 years of this monopoly, Ontarians deserve a big step forward, not tiny steps forward. This is the opportunity, and if we go forward with Bill 159 as it is, it will be such a sad and tragic missed opportunity. Those of us who listened to the PCs before the election just cannot understand what's happened.

The Chair (Ms. Goldie Ghamari): That's all the time we have.

We'll turn to the official opposition for the second round of questioning. MPP Rakocevic, you have eight minutes.

Mr. Tom Rakocevic: My next question is for Mrs. Vicelli. Thank you so much for your excellent presentation and for your years of advocacy. You spoke very well, really talking about the need for real change.

Is there anything you would want to share about some of the experiences you've personally gone through that led you to be such a strong advocate? Is that something you'd want to share with committee, even briefly?

Mrs. Gay Vicelli: Thank you for that question.

To tell you the truth, I was 69 years old when I purchased my townhome. By the way, all the townhomes that this builder built have been knocked down to make way for the Rt. Hon. Herb Gray Parkway, and all of the homeowners are very thankful for that.

So many of my problems—for example, in my contract I indicated that I wanted an air tub. The builder quoted an amount to me, and I accepted it and he put in the air tub. Then he came back to me and said, "Oh, I didn't realize that an air tub costs more than a regular Jacuzzi. You need to give me \$500 more." I didn't have to do that; my contract didn't say it. But I did because I'm an ethical person. Then when I go, on the day, to accept my new home, the tub is all cracked. There were four major cracks in my tub. And Tarion said that I needed to just fix that tub.

So I ask you, if I bought a car and I went and they told me, "Oh, by the way, your car has been in a major accident, but we fixed it," I wouldn't have to take that new car, right? So now I contact the provider of the air tub, the actual people that manufacture it, and they told me that my warranty is now null and void. They're not going to warranty it because of the damage. But I had to accept the repair on that tub.

I got so fed up with Tarion not protecting me but rather fighting me. And they would say to me, "If you don't like our decision, you can go to LAT." Finally, I just got fed up and I went to LAT. Well, let me tell you, that was a horrible experience, too. I self-represented, and I understand that the percentage of homeowners who are successful at LAT are—I think less than 5% are successful at LAT. So I ended up at LAT, and also I had to sign a non-disclosure agreement, which I thought was no longer allowed, so I can't tell you about what happened at LAT except the fact that my common misstep reigned. I'm going to leave it at that.

I had an HRV system put in and it didn't work. I had to contact the manufacturer, who sent a representative down from Quebec—from Quebec—and he found that it was not wired properly. It was wired backwards.

Mr. Tom Rakocevic: I'm so sorry to hear about those experiences that you've gone through. You're not alone in this province, unfortunately.

I just want to wrap up my questions specifically to you to ask, again, do you support Bill 169, my private member's bill, from the NDP opposition? And do you support the NDP amendments to this Bill 159?

Mrs. Gay Vicelli: I do, and I'd rather see your bill—rather than Bill 159 amended.

Mr. Tom Rakocevic: Thank you.

Mrs. Gay Vicelli: I support your amendments, yes.

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Mr. Tom Rakocevic: Thank you very much for sharing your personal experiences and all your advocacy.

My next question is to Ms. Captijn. Do you have confidence in the current boards of HCRA and Tarion when it comes to consumer protection and getting away from builder control?

Ms. Barbara Captijn: No, I have confidence in neither of them. The Tarion board has, I think, six new members; I haven't been able to see any who has any consumer advocacy background or any knowledge of the warranty process, or even any knowledge of the problems consumers have had. They come from very different industries—I think four of them from the real estate industry. There are still a number of builders on the board and there was a long-time board member who was promoted to chair. So we're going to see probably more of the same, I would say, from that board.

And from the board of HCRA—I met with those people when they were putting together the board, and I gave them my views about what consumer participation would mean and why they should have it. They didn't follow any of that information. They've even hired two former Tarion executives on their board, so we call them Tarion II. We

see that that's going to be the same old same old. There's no reason why, as Dr. Somerville said, you couldn't have builder advisory councils advising these boards on technical issues which have to do with the technical aspects of the building industry—that would be more fair—but the boards must be independent.

On the new Tarion board—I don't see how that has solved any problems at all. It may even have made them worse to a certain extent, because you've got people on the board who don't know much about the complexities of Tarion and the problems that Tarion has created.

Mr. Tom Rakocevic: Do you support NDP PMB 169, and do you support the NDP opposition amendments to this bill?

Ms. Barbara Captijn: Yes to both of those. I've read Bill 169—I read it again today—and it addresses the problems that we've been raising here. I don't see any point in using taxpayer money to just skirt around the issues; you've got to go to the heart of the problem. Bill 169 goes to the heart of the issues—

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

Ms. Barbara Captijn: —follows Justice Cunningham's review and the auditor's report.

And yes, the amendments that you proposed to Bill 159—I agree with them all.

Mr. Tom Rakocevic: Again, I thank all of you for your years of advocacy.

I just want to end really quickly with Ms. Somerville from the CPBH. Do you feel that Bill 169 captures the consumer protection that you and your association are looking for? Do you agree, again, with the NDP amendments, the opposition amendments to this bill? And do you feel that the opposition, not like the government—has the opposition listened to your concerns and responded accordingly in terms of consumer protection?

Ms. Karen Somerville: Yes, yes and yes, and yes. We strongly support Bill 169. We would reluctantly go along with Bill 159 if we had some of these significant changes that I've been talking about—the board composition and consumer focus. The NDP—

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

We'll now turn to the government for the final round of questioning, for eight minutes. MPP Harris, you may begin.

Mr. Mike Harris: Thank you to the presenters for being here today. I know sometimes it does get a little bit challenging with the Zoom calls and getting the mikes on and off, but thank you to everybody who has stuck with it here today.

I have just a few quick comments, and then I wanted to get into some questions for Mrs. Viecegli—but Dr. Somerville first. Were you not, before the COVID-19 pandemic unfortunately took hold here in the province, offered a meeting with the minister a few months ago in person, which I believe you turned down, because it was a little bit of a far drive for you to get here from the Ottawa area? But then they also offered you a teleconference and you said you would only meet for an hour and a half to two

hours. I don't want to get into a long statement on this, but is that correct?

Ms. Karen Somerville: No, that is not correct. After there was a bit of a kerfuffle in the Legislature with MPP Singh and the minister saying that what MPP Singh had said was not accurate, we had an introductory telephone conversation with the minister last fall—

Mr. Mike Harris: Sorry, Dr. Somerville. Were you offered a meeting a couple of months ago with the minister?

Ms. Karen Somerville: Yes. We were offered a 30-minute meeting, and I responded that we would appreciate a longer period of time because of the substantial issues. We never had a response to that. We—

Mr. Mike Harris: Madam Chair, let the record reflect—

Ms. Karen Somerville: We never had a response. We—

The Chair (Ms. Goldie Ghamari): Sorry. I would like to remind all members, as well as presenters, to please be respectful of each other's time and to just answer the question. Our time is limited, and so once the question is answered, I would ask that the MPP move on with their line of questioning.

Ms. Karen Somerville: If I can answer, Madam Chair: We did not turn down a 30-minute meeting with the minister.

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

MPP Harris, would you like to continue now?

Mr. Mike Harris: Yes, I would. Thank you. Just let the record reflect that the minister did offer a meeting to Dr. Somerville and her organization, which she did unfortunately decline.

My question now is to Ms. Viecegli. You've talked a little bit about how you just purchased a new townhome fairly recently, and you did have some issues with it. What other priorities do you see for new home buyers? What kind of protections do they want to see? Just elaborate a little bit further on some of the things that you'd like to see included in some of the protections for new home buyers out there.

I just bought a home myself during this pandemic. We moved about a month and a half ago, and with this particular home, we've been lucky. It was built in 2006, and we haven't had any issues since we've been in there.

As a new home buyer, you obviously have some concerns and you want to make sure those are addressed. What are some other priorities that you see for new home buyers?

Mrs. Gay Viecegli: Well, I think I've outlined those in my presentation. My townhome was built in 2004, and it's been long gone—again, because of the Herb Gray Parkway.

What I want to tell you is that I have pounded the pavement. Basically, I have run into new home developments here in Windsor, and I have spoken with people. I have requested signatures on a petition. The majority of the homeowners were so unhappy with Tarion.

They took different approaches. One would say, “Tarion is useless.” Some would say, “We tried to get help through Tarion. It was easier fixing it ourselves.” Others would say that they’re not letting a Tarion inspector on their property anymore. It’s ridiculous. Of all the homes that I went to, I never had one homeowner say to me, “There’s nothing wrong with Tarion,” and I’m being very honest.

When I bought my townhome and I read the warranty, I thought, “Wow, I’m really protected.” But, bottom line, I found out that that warranty, that Tarion, did not protect me. It fought me every step of the way, even with something—I had things in my written contract where the builder is not supposed to substitute without written permission from the home purchaser. My builder substituted, I did not want the substitution, but still, Tarion ruled against me. Like I said, every step of the way, they’re saying, “Oh, you don’t like our decision? Go to LAT.” You know what—

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

Mrs. Gay Viecelli: What kind of a warranty—

Mr. Mike Harris: I just want to make sure that we give some time to some of my other colleagues as well. Thank you.

The Chair (Ms. Goldie Ghamari): Who would like to ask further questions from the government side? There’s two and a half minutes remaining. MPP Pettapiece, you have the floor.

Mr. Randy Pettapiece: Thank you, Chair. Thanks to all of you for coming in today.

Dr. Somerville, we’ve heard a lot of different ideas throughout this presentation from all of you, and ideas of what you see or don’t see in the bill and your dissatisfaction with some of it. I’d like to get down to the brass tacks here and just see, instead of all the other types of things.

1400

I wonder if you could answer this for me, and if we have time, I wouldn’t mind the other ones answering this question too: What is the best way to involve new home buyers in the development and implementation of any changes to new home warranties and protections?

Ms. Karen Somerville: I think giving new home buyers an opportunity to have a voice. I would raise to you the example of Justice Cunningham and what he did. He went across the province and he met with consumers in a number of locations.

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

Ms. Karen Somerville: Ultimately, he concluded, as you know he did, with his 2016 report. So I think that’s important.

A lot of these situations are complex. A lot of these situations are confidential. People are concerned about their property values. They’re concerned about upsetting their neighbours. There’s a lot of sensitivity involved for homeowners to speak out. I think that consumers need to have that opportunity for face-to-face conversation, as Justice Cunningham did.

Mr. Randy Pettapiece: I think that’s a good point. I also think that when you buy something like this, a home, a lot of money’s involved. Sometimes you’re embarrassed

to say anything. It has to be made easier for consumers to get access to the right people. I think that’s a pretty good idea.

Ms. Viecelli, could you give us your thoughts on this same question about involving consumers in the development and implementation of any changes—

The Chair (Ms. Goldie Ghamari): My apologies. This round of questioning is now concluded.

I want to thank our three presenters for joining us today. I know the committee appreciated your input and insight, and I know they’ll have a lot to think about. At this point, you are released.

MS. MERG KONG

MS. KATHY MOJSOVSKI

MR. DAVE MYATT

The Chair (Ms. Goldie Ghamari): We’ll now turn to our next set of presenters. We have Merg Kong, Kathy Mojsovski and Dave Myatt. You will each have seven minutes for your presentation, following which there will be a round of questioning. I will be providing everyone with a one-minute reminder when they have one minute left for their presentation.

At this point, I’d like to call upon Merg Kong to please state your name for the record and then you may begin. You will have seven minutes.

Ms. Merg Kong: Hi. It’s Merg Kong speaking. Thank you for letting me present.

The first thing I want to say is that MPP Rakocovic’s Bill 169 makes more sense than Bill 159.

When it comes to MMAH helping taxpayers, consumers with issues with their brand new homes or condos, I noted there was a Globe and Mail article about the minister’s zoning orders. These are special orders that were given by the MMAH minister. I guess I’m a little confused about why he or she—however that role is different gender-wise—has not, through a period of 40 years, used such powers to assist consumers. Obviously they can, and consumers shouldn’t have to figure out what powers are available to the minister to help us. Consumer services, consumer protection and enforcing the condo act, things like that, also, I’m sure, are available to that minister.

Recently, I learned of a \$50,000-to-\$60,000 assessment—a per unit assessment, by the way—for seniors living in Guelph. We’re in a pandemic right now. People can’t even live without CERB, and you’re expecting seniors to be slapped with a \$50,000 to \$60,000 per unit repair assessment?

Quickly, the backstory to my condo: It was a LEED-certified condo, which means it’s supposed to have a better envelope for environmental purposes, but also functionality when it comes to thermal, for example—just more efficiency across the board. It is not. You can see that in the pictures I’ve included. Clearly you can see the difference between somebody else’s condo—by the way, those are the same window manufacturer: Toro. It’s not a different manufacturer; it’s the same window

manufacturer, and you can see distinctly between pages 7 and 8, the windows are very different, and yet the age of the buildings is very similar.

When it comes to my ongoing concerns with how boards disregard their neighbours' interests, not only is the \$50,000-to-\$60,000 assessment against senior citizens a problem, but I showed you an example of what I'm living with at my own building, again, in a pandemic. I have electrical outlets to use; they are clearly in picture 6 labelled—not confusing—and I've been denied. What absolutely should be concerning to the committee is one of the reasons being used: that they're not maintained. As you can appreciate, we're paying six figures to a property management company. We hope that they are with the skill set to understand that certain things have to be done so that our condominium corporation is run appropriately.

So barriers to condos—I'm here to really speak to condos because I find that to be an extremely disconcerting area of this whole bill, or lack thereof of protection. We have an intermediary, if you wish, a condo director board, and whatever they do seems to be the law. This isn't a matter of me wanting something just simply to want something; these are practical issues. You look at my windows. There's nothing normal about that black soot coming in from the outside. That isn't dirt. Normal dirt doesn't look like that. And then you see another person's window of about the same age. That is objective. It isn't just some willy-nilly subjective observation or commentary.

When you look at the meters for noise, you will see also that that is objective. I may not be a certified noise technician, but you can see from the meter that that's pretty darned loud, and that's a combination of indoor-outdoor readings. There are rules through the time period through the different planning acts and so forth that give recommendations to not have that type of intrusion inside your interior. What's fascinating is that one of my neighbours is legally deaf and hears this type of ruckus. This is a health issue. This is again not just a simple "I don't like something, so therefore I want changes."

Page 14, the Condominium Authority of Ontario: It's interesting; we had about four board resignations. We still don't know why, but I would guess that possibly the conflict that was mentioned is definitely a reason. Consumers shouldn't have to constantly not be protected between—for condominium owners, it's between Tarion requiring board directors to submit common element defects, and then we have the CAO that doesn't even enforce the Condominium Act. I don't know why they exist, because they simply push paperwork, as far as I know, at this point. And that's great, because paperwork is important, the documentation, but we need enforcement.

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

Ms. Merg Kong: How do you, during a pandemic, treat people like my examples here?

Their objective of \$50,000 to \$60,000 per unit for a demographic that is predominantly seniors is unacceptable. And then you have my example of COVID-19, and then you have my windows. We all know it's a pandemic

right now. Why would you, even if a rule said technically no, not help your neighbour to avoid them from being infected by a pandemic virus?

So these are attitudinal issues that require checking, and it's in front of you. I was hesitant on including it, but I thought, it is a good example of what I'm trying to share with committee members, my own MPP and so forth.

Thank you for the seven minutes.

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

We'll now turn to our next presenter, Kathy Mojsovski. Please state your name for the record and you may begin. You have seven minutes.

1410

Ms. Kathy Mojsovski: My name is Kathy Mojsovski. Good afternoon. First, I want to thank the Standing Committee on General Government for allowing me the opportunity to speak at today's public forum regarding Bill 159. I appreciate it. Second, I want to be clear that any statements I make today are my own opinions based on my own experiences. They're without prejudice.

My goals for today are (1) to recap some of the proposed legislative changes for Bill 159; (2) to provide some sincere feedback in order to possibly improve the way matters are handled by Tarion and/or the builder; and (3) to discuss some concerns I have.

My understanding is, if the government introduces legislative changes in Bill 159, it would strengthen protection and promote trust and confidence for the people of Ontario when they are investing in one of the biggest purchases of their lifetime: a new home. My understanding is that our government is proposing to fix the Tarion Warranty Corp. and Ontario's new home warranty and protection program by restoring consumer trust and by reducing the influence of builders. Moreover, Tarion will focus on protecting buyers of new homes versus builders.

The proposed changes would respond to recommendations in the Auditor General's 2019 special audit of Tarion, taking steps to make significant improvements that would be responsive to the needs of consumers. The government is proposing changes to the Ontario New Home Warranties Plan Act and the New Home Construction Licensing Act which would overhaul the Ontario new home warranty and protection program to make it consumer-focused and to reduce the role of builders and vendors by making improvements to the current single-administrator model for warranties and protections delivery.

It would also support the new consumer protection priorities that were committed to in the spring of 2019, such as providing the warranty administrator with greater ability to scrutinize builder applications and conduct inspections before a homeowner moves in. This, I really like.

I understand that our government has already taken action to ensure that Tarion is more transparent and that protections for consumers are improved. I understand the province has increased transparency and accountability at Tarion by requiring the public posting of board and

executive compensation and changes to Tarion's board of directors' composition to address the perception of builder dominance on the board. The ministry plans to consult with the public and other stakeholders, including Tarion, on proposed regulations.

I understand the government concluded that enhancements to the single-administrator model for warranties and protections delivery is in the best interests of the people of Ontario, and is a recommendation made by the Auditor General. However, I believe, at some point in the future, the government may need to review the multi-provider insurance model for new home warranties and protections in Ontario, should the enhanced single-administrator model for Tarion Warranty Corp. not work, as stated in Bill 169.

I want to turn to some concerns. Health and safety issues: It is critical that Tarion responds to serious defects in a timely manner. For example, if there are high levels of mould found in a homeowner's house, Tarion, under government, should make this a priority. They should take immediate action. Furthermore, Tarion should be responsible for paying for the homeowner's living accommodations while the builder is ordered to remediate said mould.

Turning to accountability and transparency: There must be ongoing transparency and accountability during the entire process with Tarion by the government.

Checks and balances: Who is responsible for checks and balances for the Tarion process from alpha to omega? How often are these checks and balances happening? Will there be frequent audits? If so, by whom?

Regarding incentives: There should be zero incentives to inspectors or anyone else having homeowner claims. The process should be objective, honest and done with integrity.

Turning to conduct: Tarion's staff should conduct themselves with professionalism, honesty and integrity when dealing with the homeowner at all times. For example, there should not be any intimidation or harassment to bully the homeowner to deter them from filing a legitimate claim. Another example is: When the inspector writes their reports, information should be factual and not false. Otherwise it prolongs and delays the process for the homeowner. Tarion is not above the law.

Turning to deadlines: There should be deadlines in several areas of the Tarion process. It shouldn't take four to eight weeks for the inspector to get back to the homeowner. It delays the administration of justice. Another example is: A homeowner who has lived in their home for three years should have their claims from their 30-day and one-year already dealt with.

Please consider the resources that builders have versus homeowners. There is an imbalance of power and resources. This is why consumers depend on Tarion for help.

There is also an inconsistency with deadlines of settlements. One should not feel like their hand is being forced.

Turning to the burden of proof: Tarion should consider all evidence submitted by the homeowner regarding their claims and not ignore it and just side with the builder.

Turning to claims: I believe that if Tarion approves only two to three claims out of 65 claims, there is something wrong.

Turning to the board of directors at Tarion's governing body: There should be several people on the board of directors, not just builders—perhaps have a mixture of government, staff, public, Tarion employees and builders.

Turning to the builder registry directory: Every claim that a homeowner has should be put into the Tarion builder registry directory, specifically for health and safety issues.

Regarding the Licence Appeal Tribunal, the LAT, statistics: Statistics show that homeowners are not that successful at LAT. For example, from 2016 to 2019, consumers lost 84% of the time. From 2013 to 2019, consumers won only 10% of the time. We have to ask why consumer success rates are lower in the last seven years. Please keep in mind that by the time Tarion is done with inspecting, re-inspecting and re-re-inspecting, two to three years may have passed. By the time a homeowner reaches LAT, some homeowners cannot afford a lawyer to represent themselves. These homeowners are stuck paying—

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

Ms. Kathy Mojsovski: Thank you—out-of-pocket expenses the builder or Tarion should have paid. At this point, homeowners are exhausted, mentally, emotionally, physically and financially. Some consider suicide. Some are forced to sell their home.

Lastly, it is my sincere hope that the government makes changes that are going to protect consumers. It is time. It is my opinion that homeowners honour their contract with builders, and builders should do the same. However, if not, Tarion should be there to protect homeowners. Please keep in mind that our houses protect our innocent babies, children and elders. Our homes are where we eat, sleep and live. It should not be a place that we feel unsafe.

Thank you for your time.

The Chair (Ms. Goldie Ghamari): Thank you very much. We'll now turn to our third presenter. We have Dave Myatt. Please state your name for the record, and then you may begin. You'll have seven minutes.

Mr. Dave Myatt: My name is Dave Myatt. I bought a new home from a local builder in 2018. Today I'll present my experience with Tarion to explain why it must be dismantled and why Bill 159 does not go far enough. This is my lived experience with Tarion. It's not just some random report or study; this is my reality.

I'm into my third year of my Tarion warranty claim. Most of the items claimed in the first 30 days of occupancy have been settled, but it took 20 months, four inspections and over 130 pieces of correspondence. Other items claimed have yet to be addressed. Inspections for items claimed on my first- and second-year reports have yet to be scheduled. The O.J. Simpson murder trial didn't last this long. This government may call this a warranty and consumer protection, but I call it harassment and abuse. This demonstrates that Tarion delays, denies and devalues claims to get the homeowner to quit trying.

Tarion shows no sense of urgency with the Ontario building code violations in my home either. They mean no

more to Tarion than the simple defects. My health and safety are obviously not their priority. Imagine if an insurance company took over two years to fix cars damaged in accidents and get health care to the people who were injured in those car accidents. That would not be tolerated with something I park in my driveway, so why are Ontario residents forced to tolerate this in their new homes?

In spite of two chargeable conciliations against the builder, and claims paid, my builder's record on the Tarion website remains clean. This is a blatant example of builder incompetence and Tarion protecting the builder's reputation. This is a common practice with Tarion. Furthermore, Tarion delayed the investigation of my honesty and integrity complaint against the builder for over a year.

Tarion is forced on new home owners. There is no guarantee a homeowner will receive repairs, compensation or any form of protection from it. Tarion is simply a no-guarantee warranty. I have been failed by both the provincial government and Tarion since buying this house.

In a model with many private providers, builders with many claims would be penalized with higher premiums. This would give builders an incentive to build homes well and avoid homeowners having to make claims against them by repairing the defects. This would also help weed out the bad builders.

1420

Tarion is not only harming Ontario's new homeowners but the entire Ontario building industry, because it's enabling builders to build substandard homes with impunity. The current system between this government and Tarion is set up to oppress homeowners, not protect them. To my knowledge, no homeowner won against the LAT in 2019. The laws allow Tarion to get away with these things through loopholes and technicalities.

The spirit of the law is homeowner protection, but Tarion weaves its way around the law like a snake. Your critical role here as lawmakers is to stop this, not dance around it. I hope you are listening this time. You can't pick the spots off a leopard after 43 years. Tarion needs to be dismantled. If you think Tarion will fix itself, you might as well ask an arsonist to put out a fire.

The minimal oversight this government exercises over Tarion is a disgrace and is no more effective than the police policing themselves. It's time to take a stand against this tyranny.

I'll be happy to any answer of your questions pertaining to my presentation. Thank you.

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

At this point, this round of questions will begin with the government. You'll have eight minutes. MPP Wai, you have the floor. You may begin.

Mrs. Daisy Wai: I appreciate all three presenters. You have made your case. We understand the issues, and we thank you for your concerns. I assure you that the government takes these issues very seriously. We are sorry to hear the difficulties you're experiencing.

We also heard from the Auditor General their suggestions and the comments. In fact, that's why we are having

this Ontario new home warranty and protection program transformation. We're having this act in order to make those changes that we all see are necessary.

The Rebuilding Consumer Confidence Act, 2020, if passed, will restore consumer trust by curbing the influence of builders and protecting the consumers during what may likely be their biggest purchase: a new home. We understand that. That's why these proposed changes would overhaul the Ontario new home warranty and protection program to make it more consumer-focused.

In fact, the Honourable Lisa Thompson, Minister of Government and Consumer Services, took action and exercised power and required changes to the size and the composition of Tarion's board. Because of that, we are making the changes that could be necessary. We believe that the changes in the board's structure will help to build and improve home warranty and protection programs that can work effectively for Ontarians, and enhance the consumer confidence in the new-home-building sector.

I would like to ask you a question—maybe Kathy can help me to answer that. Based on your experience, what do you see as the most important consumer protection priorities for new home buyers?

Ms. Kathy Mojsovski: Great question. First and foremost is health and safety for consumers. You have to recall, we've got children, we've got elders, vulnerable people, people dying of cancer. For example, in our experience and others that I've heard, if there is water damage, mould issues, heat issues, you've got to get the builder involved. And if they don't do it in a timely manner, Tarion has to be involved, without question. If people have to leave the house, then Tarion should be paying for those expenses. The homeowner should not be paying out of pocket and then maybe or maybe not getting reimbursed from Tarion. So without question, health and safety.

Mrs. Daisy Wai: Thank you very much. Your suggestion is recorded.

I'll ask my other colleagues if they have other questions or other comments.

The Chair (Ms. Goldie Ghamari): Who would like to ask further questions from the government side? MPP Bailey.

Mr. Robert Bailey: Thank you to all our presenters today.

I was going to go back to Ms. Merg Kong. I heard you speaking about the condo act. I just wondered if you could give us a little bit more—Bill 159 would permit regulations that would address *[inaudible]* dispute resolution. What advice could you give us about how that would make that resolution process better—and any improvements you could give us, in the short time I have left?

Ms. Merg Kong: I simply want, MPP Bailey, to suggest that you folks start by enforcing the condo act. You look at my example—you can read the response from the board, the property management. That is not how you treat a pandemic. The Premier had an emergency act enacted, which meant stay at home, keep your distance,

and this is what the response was. I can't say anything more than to show you how bad the environment is.

My windows—I sent you my first presentation back in January, and thank you to your office for accepting it.

Mr. Robert Bailey: Thank you.

Ms. Merg Kong: I still haven't heard from anybody, MPP Bailey, to help me out with those windows. I don't know where the bottleneck is. Minister Clark can certainly step in with the assistance of your ministry, working with the Minister of Consumer Services, to rectify this. I read Tarion's major structural defect on the last page of my submission to you folks. It's very clear these windows would not materially be serving the purpose for which they're intended. That's black soot dirt coming in from the outside. I'm not an engineer—not this type of engineering—and I think we can all agree that's not normal compared to the other windows. So I would like to see enforcement, please.

Mr. Robert Bailey: I yield the rest of my time to one of my colleagues.

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

Mr. Sheref Sabawy: Thank you to all the presenters for bringing all those issues to our attention.

I understand that Tarion has been having issues with all the consumers, all the homeowners, according to the Auditor General's report. That's basically the spirit of this bill—to try to fix some of the root causes of this unbalanced situation, which is a representation of different stakeholders on the board of Tarion.

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

Mr. Sheref Sabawy: I think the bill, in itself, is trying to create that balance, removing some of the issues which Tarion has been experiencing. When it comes to the regulations, there would be another consultancy to build all the [inaudible] for the consumer protection part, as soon as we just solve the fundamental problem with the Tarion board itself, our present issue. Can the owners have input in the regulation part? Why do you insist on trying to push that into the bill itself, in your opinion? Kathy?

Ms. Kathy Mojsovski: Can you repeat that, sir? Sorry.

Mr. Sheref Sabawy: Yes. I'm just saying, why do you think it's different—to make sure that the regulation itself protects the consumers, and you're insisting on making the bill itself reflect that?

Ms. Kathy Mojsovski: Well, nothing has worked thus far. It's pro-builder, so we need definite changes from the board, a mixture of consumers—

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

We'll now turn to the official opposition for eight minutes of questioning. MPP Glover, you may begin.

Mr. Chris Glover: I just wanted to give Merg a bit more time to talk about the issues with the condo board and some of the solutions that you would recommend. I'm also a condo dweller, and there are probably more condo dwellers who are residents in my riding than any other riding in the country, so I'm interested in your experience and what you'd recommend.

1430

Ms. Merg Kong: My concern is not just merely subjective, as the very educated panel I'm speaking to knows. Pictures say a thousand words.

I think the enforcement is the first real step, and I then think you need, on things like a home warranty board, a consumer voice. As much as I may have a technical background, this is not my world, but it's become my world. I didn't know what a dBA for a noise meter was until I actually had to step in and try to give objective evidence to the builder to say, "Please help us." It's one of the premier builders, by the way, and I have since probably sold one of their other buildings—or at least one unit, because somebody loved the building I'm in. So I'm certainly, as with other consumers, not sitting here to berate the builders. We simply want them to be held accountable when they do something wrong.

As you know, Toro is one of the best window manufacturers we have around in Canada. You can see by the difference in the two frames that there's a problem. You can see with the ice formation in slide 12, page 12, that there's a problem.

The condo act itself needs enforcement, and CAO needs to do more than to just simply help us with paperwork and give us the right document. I think that's really what it comes down to.

In this very small environment where we can speak to you as consumers, not much can be done if we don't have a seat at the table, as you can appreciate. If you're not on your board, you're not going to really have a voice. A condo is not five people. You look at these poor elderly people, and I don't know how they're going to do this—\$50,000 to \$60,000 per unit. That's a lot of money. You read my page and that's how that happened. The board went on its own little tangent.

Mr. Chris Glover: Actually, I was fighting education cuts for 10 years before I first ran for a school board trustee. The reason I ran for trustee is I saw this quote in the paper that said, "If you're not at the table, you're on the menu." Does it feel like homebuyers and condo buyers are on the menu?

Ms. Merg Kong: I agree with your example. Being at the table is very important, just like we have every right—I think it's an obligation—to vote when there's an election. I think that should transpire into the condo ecosystem.

We don't have a voice because the way it's set up right now—who do I tell when the board, for example, flaunts its control over the whole corporation and has just recently killed a declaration bylaw and went ahead and passed a so-called rule? By the way, the larger part of the owner population, sadly, doesn't know that happened. They didn't understand the difference between requiring their vote and the board pulling this type of stunt during a pandemic, of all times.

Thank you for being on this panel.

Mr. Chris Glover: No, thank you for the deputation.

I want to ask Dave a question, as well. Dave, I was typing out—you had many good quotes, quotable quotes in your statement. You said, "There's no sense of urgency

with Tarion.” You said that you’re in the third year of your warranty claim. There’s 20 months, four inspections, 120 pieces of communication to resolve just some of the construction defects, and you said you’d call this “harassment and abuse.” The other thing that you said is, “I’ve been failed by both the provincial government and Tarion since buying this house.”

Do you feel the bill that’s before the House now, before this committee, will actually address the issues that you’re talking about? Or is it another failure of this government?

Mr. Dave Myatt: No, I don’t think Bill 159 is going to address the issues at all. Actually, it’s 130 pieces of correspondence that went through, not 120.

My point is: The amount of effort and the burden of proof that has been put on me—the costs to get engineers, inspectors, home inspectors, the time it has taken to get contractors in here to view—has been very time-consuming. It’s always up to me to prove these things.

I don’t see where Bill 159 is doing anything. My builder basically just up and walked away. He’s got a clean record, and Tarion is trying to pick up the pieces, but they’re putting me through the meat grinder as if I am on trial for murder. I took 40 years to find this house. The reason why I bought a new home is because I didn’t want to go through the aggravation of buying somebody else’s problem. Well, I paid a premium price and got one hell of a problem, let me tell you.

Mr. Chris Glover: Yes, I’m really sorry. We’ve been hearing these all morning today; we’ve heard these at previous deputations. I’m really sorry for what people are going through.

I think somebody else—

Mr. Dave Myatt: Well—

Mr. Chris Glover: Go ahead.

Mr. Dave Myatt: What I was going to say is that I’ve been watching this on TV, as well. It seems that this government just does not want to listen to anything. When Dr. Somerville was presenting a few moments ago, Mike Harris tried to put her on the stand for saying that she refused an interview. She made it very clear that she didn’t refuse any interview. She just wanted to know if it could be longer—

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

Mr. Dave Myatt: He wanted the record to reflect something that she did not say.

So when we’re talking to this Conservative government, they don’t want to listen. If this government was listening—Lisa Thompson wouldn’t listen until the border patrol and the police got involved with the licence plate scandal. Yet, every time she stood up in Parliament, she was saying, “We are listening to the people.” Well, you can’t listen to the people when your head is buried in the sand. It’s a pathetic government that we have in power. They’re not listening to the people. They’re oppressing the people. Otherwise, we wouldn’t have had the military going into seniors’ homes. We can’t live in a seniors’ home; we can’t even live in our own private homes under this government.

Mr. Chris Glover: I think I’m out of time, but we’ll have the opportunity to speak again—

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

We’ll now turn to the independent Green Party member, MPP Mike Schreiner. You have six and a half minutes. You may begin.

Mr. Mike Schreiner: I want to just thank all three of the presenters for coming in today and sharing your stories.

Merg, I just wanted to acknowledge the condo example in Guelph you gave, with the seniors. I’ve been meeting with that group, and it’s really highlighted some of the changes that need to be made in condo governance. It’s a very challenging situation. So thank you for articulating their concerns today. I really appreciate it.

I’m going to focus my questions on the Tarion portion of the bill.

I’ll start with Kathy for my first question, because you had talked about an imbalance of power. It seems like the consumer is the one who is on the short end of the stick when it comes to the balance of power. Is there anything in this bill that recalibrates that to give consumers a little bit more power? Or is the average person still getting the short end of the stick with this bill?

Ms. Kathy Mojsovski: Honestly, no. I think we have to dismantle this bill, without a doubt. They talk about oversight and accountability, and they talk and they talk and they talk. But there is definitely an imbalance of power. It’s David and Goliath times two. You’ve got a billion-dollar builder, you’ve got a billion-dollar company with Tarion. To add on, the onus of proof is on us. We are not well-versed, most of us, in the Ontario building code. By the time they purchase their home, a lot of people don’t have the extra money to get this—burden of proof, if you will. At the end of the day, if there are delays after delays after delays, people are exhausted.

1440

So no, we definitely have to look—you can put lipstick on a pig—don’t mind my expression, but I don’t think this bill is adequate. I don’t. Nothing has worked thus far. You have to dismantle it. There’s definitely conflict of interest, imbalance of power, a lot of biases and a lot of intimidation. I don’t think it’s going to work, in my opinion.

Mr. Mike Schreiner: I’ll give Dave an opportunity to answer that question, as well. Do you think this bill in any way addresses the imbalance of power that consumers have when it comes to Tarion?

Mr. Dave Myatt: [*Inaudible*] I think [*inaudible*] no, and that’s unfortunate. I believe Bill 169 is going to serve consumers well. To expect Tarion to make changes—I just can’t see it. They have had opportunity after opportunity. They have been studied to death. They have the power and they are going to do what they want, when they want; and when they say jump, the homeowner has to say, “How high?” This has to stop and it has to stop with the removal of Bill 159 and the implementation of Bill 169. We have to stop this madness one way or another.

Mr. Mike Schreiner: Merg, I was going to give you an opportunity to answer that one too. I think your presentation related to condos really spoke to the imbalance of power, as well. Do you think there's anything in this bill that creates any balance for consumers?

Ms. Merg Kong: Unfortunately, no, MPP, because condos are caught in a double whammy. We're stuck between Tarion and its very builder-preferable legislation, and also the consumer act, which obviously gives only five people the legal fees to address whatever they feel like addressing, which are ironically paid into by the rest of the corporation, the other owners. The silo that they keep themselves within when they act inappropriately is inappropriate. This is not supposed to function like North Korea. That's how some bad corporations run into this.

The example you gave me for Guelph that you're aware of—and thank you for helping them, because I do know somebody personally impacted there, which is why I knew about the story—that is not abnormal. This is what happens when consumers have nowhere to go to request enforcement. We end up with this type of situation: a \$50,000-to-\$60,000-assessment per unit and its senior citizens—

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

Ms. Merg Kong: We end up with a situation where you can see my windows are clearly not meeting the standards described by Tarion, and yet there's no will to fix them. It's a problem.

Mr. Mike Schreiner: I'm sorry to hear that.

I'm just going to give the final question to Kathy. All three of you have somewhat talked about the burden of proof, but Kathy, you explicitly talked about it. Do you feel the burden of proof should be on the builder and not on the consumer?

Ms. Kathy Mojsovski: That's a really good question.

I think all of them should work as a team, but at the end of the day, spending \$5,000 on a forensic report as a result of the builder's negligence should not be my problem. Tarion should pay for it. They're the ones that are supposed to be kicking in. It's mandatory insurance.

Work together, I say. It's a win-win situation. But as it stands, no—

The Chair (Ms. Goldie Ghamari): Thank you very much. That concludes the time we have for MPP Schreiner.

We'll now turn to the government, with MPP Mike Harris—eight minutes. You may begin.

Mr. Mike Harris: Mr. Myatt, I just wanted to quickly address something you brought up in your earlier comments about my line of questioning with Dr. Somerville. She had stated multiple times through her presentations that she has reached out to Minister Thompson's office, has never got a response, has never been offered a meeting, when that, in fact, isn't the case. I did confirm that. She was offered a meeting—back, obviously, before the COVID-19 pandemic took hold here in the province—and she did decline it, so I just wanted to clear the air on that and to make sure that we're speaking truths here when we're in committee.

In fact, Mr. Myatt, I'll give you an opportunity here to get a little bit more airtime. If Bill 159 would permit regulations that could address warranty claims and dispute resolution processes with Tarion, what advice would you have as far as making improvements in that area? Would you be supportive of something that would allow for third-party resolution of disputes?

Mr. Dave Myatt: Well, I can't really speak on this topic that you brought up with Karen; I can only base it on what you had said today, and that was the only thing that I was commenting on—that what was said today did not reflect properly on the record.

Other than that, regarding what may work with Bill 159: I don't believe anything can work with that bill. The homeowners are under very strict rules with Tarion. There are no grace periods at all. If your report or form is due on a certain day, if you put it in at one minute after the stroke of midnight, you have missed your opportunity and that's it. There is nothing else. And yet, for that very same report that I only had 30 days to submit, they have taken 20 months. That is unacceptable.

With Bill 159, it's actually, as some people have said, “tinkering around” that does not do anything to address the problems. Tarion has had ample opportunity. They have had years to change themselves. They have had 43 years, and the families that they have destroyed in this province, the financial hardships that they have brought on, are unforgivable. It has to be changed, and it needs a thorough change. As one lady said here, you cannot put lipstick on a pig.

Mr. Mike Harris: Do you think putting tighter time-lines on Tarion in regard to replying and making sure that their deadlines are being followed up on in an expedient manner is something that we should be looking at here?

Mr. Dave Myatt: Definitely, but the thing with Tarion is that the way they present is that if I say they need a deadline and they have to get back to me within a certain period of time—for example, not almost two years to do a 30-day report; that's ridiculous—they can come back and they have the power to say, “This is our decision. It's final. If you don't like it, you can take us to the LAT or hire a lawyer.” That's not bargaining, and this is the way these people deal. They're like dealing with wild animals in cages. As long as their CEOs are going to get large bonuses by denying claims, the homeowner is fighting a losing battle. This will not work. It cannot work.

Mr. Mike Harris: Back to my original question, then: Would allowing third-party mediation to basically be in the middle and be the go-between in the dispute between you and Tarion—would you be amenable to having something like that take place?

Mr. Dave Myatt: Well, if it has to be mediated, do you know what the problem there is? You have two sides that aren't agreeing, and who's paying for the mediation? The mediators are going to be making money. They're going to have a contract with who? The provincial government, and so far the provincial government has only been siding with Tarion. It's like Bonnie and Clyde. You've got two

evils that work very well together, but they're not working for the innocent parties.

Again, I don't see how putting a patch on this is going to work. I think we need a new system. This old system does not work. At some point in time, people have got to say, "Enough is enough. It's not working. We spent 43 years. It's time to get a divorce. No more fighting."

Mr. Mike Harris: Thank you for your comments.

Madam Chair, I'll pass it over to one of my colleagues.

1450

The Chair (Ms. Goldie Ghamari): MPP Kramp, you may begin.

Mr. Daryl Kramp: How much time do I have?

The Chair (Ms. Goldie Ghamari): You have two minutes and 40 seconds.

Mr. Daryl Kramp: Thank you very much. I think the opposition might even be surprised, but I'm going to agree with a number of comments by all the presenters here today, because quite frankly, we as a government have to recognize that, yes, Tarion is broken. There's no doubt about it. It's not working. It's not reflective of the needs and demands, and so we had to change it, and that is what we are in the process of doing.

If it were to continue as it was, boy, I'll tell you, as far as reinventing the wheel—I would ask you to consider the fact that we have to walk and chew gum at the same time, to all of our witnesses. We are dealing with multiple agencies. We are dealing with multiple departments. We are dealing with municipalities, many types of industry and business, and certainly good folks like yourself who are experiencing problems. Our challenge, of course, is that this has to come into one piece of legislation, and it's extremely difficult to do.

That's why your notes and your conversation today can be very, very helpful as we bring forth the regulatory changes in this legislation. Don't be hesitant at all about putting in your notes, because I firmly believe that it is not broken to the point where it cannot be repaired. We're dramatically changing the impact and the focus and the force and the emphasis on the complainant versus the judicial aspect of that.

I know I don't have a lot of time to ask questions on that, and I'm running out, but I would suggest, don't give up hope on this thing. There's a long way to go on this. The regulations are going to play a tremendous part, and I assure you we're listening.

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

Mr. Daryl Kramp: As we move forward with these changes, then, my question to Dave—I understand your exasperation and certainly your frustration. I've been there myself, but I've also been around the legislative process for a number of years—and quite frankly, this is an omnibus bill, meaning it's providing for many things at once, where it's just a real challenge.

As I mentioned to all of you: Put your recommendations in. Put your notes in to us. Make sure that we can try to factor that in, so that when Tarion is reorganized, it will give us the results that we're going to need.

The Chair (Ms. Goldie Ghamari): We'll now turn to the official opposition. MPP Rakocevic, you have the floor—eight minutes.

Mr. Tom Rakocevic: My first question is to Mr. Myatt. Do you believe that if the government does not get board composition right, regardless of everything that they're saying, we will see positive change?

Mr. Dave Myatt: I'm sorry; could you repeat that? I just had—

Mr. Tom Rakocevic: No problem. The question is: If the government doesn't get the board composition of HCRA and Tarion right, are you confident in any sort of meaningful change that the government is alluding to with this legislation?

Mr. Dave Myatt: No. They can't even work with the same players. We're going to get the same results with the same players. They'll never fix anything by shuffling the people around. It's like a deck of cards. You're still going to haul the same cards out of the same deck; when you shuffle them, they're just going to come out in a different order, but they're all there.

Mr. Tom Rakocevic: The opposition put down amendments regarding this particular bill, speaking to the urgency of getting back to people. We talked about bringing an administrator to make immediate change where necessary. We talked about even requiring HCRA to share information about bad builders and other issues directly with the municipalities so their inspectors could deal with it. In all cases, the government did not support these amendments. Do you think the government should be supporting amendments like that on this legislation?

Mr. Dave Myatt: Absolutely, yes.

Mr. Tom Rakocevic: One of my colleagues on the government side said a lot of this stuff should be fixed in regulations, but the government is voting against amendments to directly do that. They're just saying, "Leave it up to us to do that." Do you trust that this is what's going to happen if they're not actually changing the board, changing the management of Tarion? Do you believe we will have enhanced consumer protection here in the way that they're trying to say will happen?

Mr. Dave Myatt: No. This is just a bunch of political words that have no meaning. It's to say something nice and stab you in the back as soon as this is all over. We've gone through this for 43 years. I'm a pretty honest guy. I don't mind calling a spade a spade. As long as the building industry is going to be contributing to the Ford campaign and all these people—as far as I'm concerned, they know who has the deep pockets.

At the end of the day, if I had the power to stop every home purchaser in this province, that would stop every builder, every—concrete, electricians, everything. If I could put a stop to this in one way, if that's what it takes for people to listen, I would do it, because this government has proven they don't listen. We wouldn't have the army in long-term-care facilities. Doug Ford pulled the plug on that. None of them listen. There is something wrong, mentally, with all these people. They don't have the capacities to make decisions for other people.

Mr. Tom Rakocevic: I appreciate your passion. I know that you've personally gone through a very difficult situation, and I know that you're trying to help new home purchasers across Ontario. I really appreciate your advocacy and for appearing here.

My next question is to Kathy Mojsovski. Do you feel that the board composition has been solved in this situation and what's being proposed here?

Ms. Kathy Mojsovski: Absolutely not. The board composition—and thank you so much for bringing it up. Thank you for everything that you do for us. Until you get a group of people—and I do believe builders should be at the table. Everybody should be, to keep it objective. There should be people who are impartial, with no conflicts of interest. It should basically be a blend of people—homeowners, builders. But the composition right now? Definitely not. They haven't got it right.

Mr. Tom Rakocevic: Can you make a comment on time?

The Clerk of the Committee (Mr. Isaiah Thorning): Three and a half minutes.

Mr. Tom Rakocevic: Thank you.

Then if you're not getting the board composition right, do you think we can see true, meaningful change that will help new home purchasers in this province since the top is not being fixed?

Ms. Kathy Mojsovski: Absolutely not. I've always been of the belief that it starts at the top and it trickles down. Until you get at that root cause, if you will, it will never be fixed. We'll be spinning our wheels, and it will never be fixed. You've got to get the right ingredients, the right people at the board composition level. You have to. It hasn't worked thus far, so we need change.

Mr. Tom Rakocevic: Do you support the opposition amendments to this bill? Do you believe that they could improve this bill?

Ms. Kathy Mojsovski: Which amendments?

Mr. Tom Rakocevic: There were a number of amendments that we had put forward; for instance, bringing in an administrator—

Ms. Kathy Mojsovski: Yes. They should have been implemented. I believe they were denied. Yes, I think that the ones you recommended, absolutely, should have been considered.

Mr. Tom Rakocevic: My next question is for Ms. Kong. Thank you for talking about condo issues. I know that condominium owners and even renters across this province have been facing challenges and looking for help, and it's really important. You sharing your own experiences is very important.

In the case when an individual homeowner purchases a home and they have warranty issues, it could cost thousands of dollars to fix—tens of thousands of dollars, and in some cases, we've heard hundreds of thousands of dollars. But if we don't get it right for condominiums, the amount of money is staggering.

Can you talk to why it's so important for condominium owners, and future condominium owners, to get Tarion right—reform for new home warranty builders?

Ms. Merg Kong: You have to get it right, because there are two ecosystems, as I stated: You have the warranty, and then you have a condo board. The influences between the two, if they are going to be equal—equally influenced to not change what is not broken, as in Tarion for over 40 years refusing to warranty many, many homes. Condos are really, really at a huge risk—

The Acting Chair (Mr. Mike Harris): One minute remaining.

Ms. Merg Kong:—and something as big as Toronto, having the most cranes in the air, as they say, is really going to suffer if these fall into dilapidation. BC leaky condo syndrome is a thing. They spent, I think, a couple billion to refurbish those condos. You can't have this happen. Fiscal responsibility is a non-partisan issue, but also social justice. What you see just in my little micro-case is not unusual. We've got this now in Guelph, the example I gave you, and MPP Schreiner is cognizant of that situation. So we definitely need a change, and Tarion needs to be ended.

1500

I look at the lemon law in the US, by the way. Literally that should be done here. Because I have a lemon, and yet I'm forced to keep it.

The Acting Chair (Mr. Mike Harris): Unfortunately, we've run out of time. I believe that ends this round of deputations. I just wanted to say thank you to everybody for their presentations. You can leave the meeting now.

DIRECT SELLERS
ASSOCIATION OF CANADA
RETAIL COUNCIL OF CANADA
MR. JEFFREY FERLAND

The Acting Chair (Mr. Mike Harris): We'll be moving on with our next round of presenters. Peter Maddox, I believe you will be first. Could you please state your name before you begin, and you'll have seven minutes.

Mr. Peter Maddox: This is Peter Maddox from the Direct Sellers Association of Canada. I'd like to thank the committee for giving me this opportunity to speak today.

The Direct Sellers Association, or the DSA, is a national association created in 1954 and based in Toronto. In 2019, we celebrated our 65th anniversary. We have over 70 companies that support Canada. Some of these companies are Canadian-owned and operated, while others are subsidiaries of larger business from the US, Europe and Asia. They're well-known and respected companies such as Mary Kay cosmetics, Pampered Chef cookware, PartyLite candles, Avon cosmetics, Usana Health Sciences, and Cutco knives.

In Ontario, the direct selling sales channel annually accounts for an estimated \$1.02 billion in retail sales, \$379 million in direct and induced tax contributions, and contributes \$351 million in personal revenue to the over 200,000 Ontarians who participate as independent sales consultants. This economic contribution continues to grow

as the nature of work and the make-up of the workforce changes. Most of the independent sales consultants are women, a statistic of which we are very proud.

The mission of the DSA is to promote, serve and protect the interests of our member companies and direct sellers marketing their products, and to ensure the highest level of business ethics and service to consumers. Our members are companies who work as consultants to market products and services to consumers, away from fixed retail locations. These entrepreneurial, independent, direct-selling consultants [inaudible] but work for themselves. They set their own hours and determine how to serve their customers.

Some direct-selling customers allow their independent sales consultants to build [inaudible]. Direct selling has numerous positive impacts on Ontario's society. Firstly, it's a retail channel utilized by millions of consumers or those in rural and remote areas who may not have easy access to bricks and mortar retail.

Secondly, it provides income-earning opportunities for hundreds of thousands, often to supplement their own and their family's regular income. While some consultants do work full-time in direct selling, the majority use the part-time earnings as a way to help pay household bills and incrementally improve their financial security. This is particularly important for groups such as recent immigrants, seniors, [inaudible] and stay-at-home parents.

Thirdly, direct selling teaches valuable business and interpersonal skills that many alumni leverage to take into more traditional [inaudible].

Finally, direct selling helps to build and strengthen social networks and personal relationships.

Our members no longer use cold calling or door-to-door sales, and we do not represent companies who might use such methods to sell household appliances and home services. Historically, many of our members have taken part by holding at-home demonstrations and parties. However, most have pivoted to using online tools such as Facebook Live and virtual marketplaces. This [inaudible] by the COVID-19 pandemic. And while personal connections remain crucial, the main focus of our sales channel has shifted to digital commerce.

An emphasis of our advocacy at the federal level has been to encourage greater broadband access in rural communities, and I wish to commend the Ontario government on its announcement to invest \$150 million in reliable broadband and cellular service. As a result of these investments, our members will be able to reach more people, [inaudible] economic opportunities for Ontarians in underserved communities.

DSA member companies commit to a strict code of ethics and business practices when joining our association. This pledge ensures that they and their independent sales consultants are committed to not just meeting but exceeding the regulatory requirements in jurisdictions in relation to online and in-person product sales, customer care, recruitment and sales force relations. Each member company must [inaudible] to these provisions.

The DSA also works closely at a federal level with the Competition Bureau and with consumer services

departments across the provinces to help uphold consumer protections while also finding opportunities to encourage entrepreneurship and small business. We are grateful to have had [inaudible] Thompson recently to reaffirm our members' commitment to ethical business practices.

I would like now to speak about the section of Bill 159, Rebuilding Consumer Confidence Act, 2020, which deals with amendments to the Consumer Protection Act. We welcome government moves to update the Consumer Protection Act [inaudible] penalties. These penalties should act as a disincentive to bad actors in the sales field. We encourage strong consumer protection, and our own stance and those of our [inaudible] to this. However, we are cautious to ensure that there are no unintended consequences of this change that could create barriers to success for legitimate [inaudible]. The ministry must ensure fair hearings for parties involved in any consumer dispute and provide education for Ontarians about this new initiative.

We ask that the government provide plain-language resources to explain the changes and give examples of circumstances where the administrative penalties would be enforced. We would be happy to share such resources with our members and via our wider communications channels.

We also ask for proportionality in the imposition of penalties. Any minimal and easily rectifiable mistakes can be used as a teaching moment rather than causing a business to suffer significant financial hardship. [Inaudible] has been an important first step in any consumer protection initiative, and we trust that the higher levels of fines will be imposed on acts of egregious bad faith [inaudible] offenders.

In conclusion, the Direct Sellers Association is pleased to be playing a role in this process of regulatory evolution.

The Acting Chair (Mr. Mike Harris): You have one minute remaining.

Mr. Peter Maddox: While financial [inaudible] due process for culpable companies are welcome, it is important that a balance is found between consumer protection and the encouragement of entrepreneurship. [Inaudible] industry plays an important but often unsung role in the growth of the Ontario economy. We look forward to continuing to work with the provincial government to ensure [inaudible] beneficial relationship continues.

That concludes my presentation. I welcome any questions from the committee about this issue or more widely about the [inaudible]. Thank you.

The Acting Chair (Mr. Mike Harris): Thank you very much.

Next up, we have Sebastian Prins from the Retail Council of Canada. Please state your name for the record before you get started, and you have seven minutes.

Mr. Sebastian Prins: My name is Sebastian Prins. I'm from the Retail Council of Canada. I'm going to try to share my screen really quick here, just so that I can have a presentation up. This will be used as a bit of a guidepost for what I'll be talking about today.

We are an industry association that represents retailers across the country. We do that predominantly by retail core sales, as we like to call it. That doesn't include vehicle sales and gasoline sales; it's your grocers, clothing sellers, hobby shops—those types of retailers. In some categories, we actually represent extremely high proportions. For example, in grocery in Ontario, we represent about 95% of grocery, by StatsCan sales.

These are just some overview numbers of the retail sector as a whole in Ontario. We are the largest private sector employer and the second-largest employer overall, next to health care, which beats us out by a little bit, based on the last census.

I'm happy to get into some of the pieces here today on Bill 159. In our view, this is predominantly a response to an Auditor General's report on Tarion. We know that that Auditor General's report brought up a number of public questions, including the efficiency of delivering on goals, high executive pay, a lack of transparency and a lack of accountability. We see this bill as a good first step in responding to a lot of those pieces spoken to in the Auditor General's report.

1510

To highlight a few of those, I'm going to broadly assume here that folks know what a DAA is at this point. I'll maybe re-emphasize this top point: It is not an agency, board or commission, which is very key. Because of its arm's-length nature, it basically can effectively tax a product group and operates with significantly less oversight than something like an agency would.

Bill 159 we see as very positive because for those DAAs that did not already have this, it enhances and creates a direct reporting line between the minister and the DAA by allowing the minister to appoint and dismiss the chair. That's quite important because it starts to create that reporting nature that doesn't exist when the chair's seat isn't accountable to an elected official. For DAAs that do already have that, there is now a fixed percentage of numbers that the minister can appoint. Both of these, in our opinion at the Retail Council of Canada, are very good first steps.

Also, previously, the Public Sector Salary Disclosure Act—the sunshine list, as we all call it—did not apply to DAAs. It only applied to agencies, boards and commissions or other entities that receive a lot of grants. So we see this as a good first step here as well, because now we get to see some active executive pay disclosure, and that's been something that we've been lacking insight into. I can tell you that industry associations like ours do make use of that and do repeatedly speak to our members around different pieces of information like this.

We think that these are some very good, fundamental first steps because the board is the one that is approving these policies and approving budgets, and when you get sightlines between the minister's office and the board, those are great first steps.

One of the things that we wanted to speak to in this presentation is some of the next steps or further things that could be added. We would love to see all DAAs move

more towards an agency model. For agencies, we've slowly added a whole bunch of things in Ontario over time to ensure accountability. I'm sure every MPP knows well that they've got to report all their expenses online. That's not something that exists for DAAs. Some have voluntarily done it, but many don't have any expense reporting for executives in an online capacity. Other Treasury Board directives, like to the Open Data Directive, are not something that applies to DAAs; you only see that in the agency space.

Some of the things that we've learned a lot about in terms of executive pay—that applies to agencies, again, but not further, so disclosure over \$100,000 as well as raises. The Broader Public Sector Executive Compensation Act, or BPS exec comp, as officials like to refer to it, has a methodology in there that applies to agencies that functionally caps executive pay. That's, again, not something that applies to DAAs.

We know that agencies are subject to a seven-year review of mandate by Treasury Board and Management Board of Cabinet. Again, it doesn't apply to DAAs.

Also, in the transparency space, FIPPA does not apply. This means you can't FOI a DAA. It also means the Information and Privacy Commissioner holds no jurisdiction over DAAs.

A great case in point here: A week and a half ago, the Ontario Electronic Stewardship—basically we saw a DAA breach their data privacy, and that impacts a lot of our members, too. Our largest stewards also sell electronic products, and we know that it's going to affect us down the road because we've got to do the same thing on other files that are tracking to report into this DAA. They, in the name of market competitiveness, released a whole bunch of data.

The Acting Chair (Mr. Mike Harris): You have one minute remaining.

Mr. Sebastian Prins: Perfect. I'll wrap up quick.

We felt that was an overstep and reached out to the IPC. The IPC clearly stated that DAAs are exempt and there is no accountability there.

The last thing I'll highlight here is that financial accountability isn't a thing that we see as much in DAAs. You can see the average here—budget growth of 15%. That's a lot more than we see in the rest of government. Government budgets don't increase by 15% a year. We would love to see that number come under control. We think agencies can really help with that.

The other bit is estimated average compensation. The average employee at a DAA makes \$96,000 in compensation a year. That's a lot of money. That's something that we don't see as competitive with the private sector. We see that as out of step. We'd love to see that come in line, and we think further alignment and further accountability to our elected officials will help with that.

That wraps up my quick presentation here.

The Acting Chair (Mr. Mike Harris): Well, you're right on time. Thanks very much.

We'll turn now to our last presenter, Jeffrey Ferland. State your name before you get started, and you have seven minutes.

Mr. Jeffrey Ferland: My name is Jeffrey Ferland. Thank you for the privilege of being able to speak today and share what I know. I'm a two-time new home owner and have also followed the issues surrounding the Ontario New Home Warranty Program closely since 2002.

Some of the issues I've studied and followed are reflected on a Facebook page my wife and I started called Make Tarion Accountable back in 2014. I hope all the committee members will take the time to research this online resource. I will also be sending a more detailed and comprehensive presentation through the link provided—I did that today—and I'd like you, please, to look at that.

While I give my opinion here today, I will also be giving some important facts. First, I want to start with some facts that are contained in Tarion's most recent annual report for 2018, published on their website. On page 51 of that report, it shows—fact—that Tarion pays out almost three times more for their own salaries and benefits than the claims they paid out in 2018. Keep in mind, these numbers do not count the money they also receive from builders for registration and renewal and investment income.

In 2018, Tarion stated that their warranty liabilities were such that they ran \$583 million, and after they took out warranty liabilities, there was \$275 million left in equity. Well, based on the claims, which in 2018 were \$10 million, they would be able to pay out home claims for 26 years without collecting a penny more. These numbers get even more concerning when you consider that Tarion should have reduced liabilities and costs compared to other insurers, because in most instances, the builders should pay for the claims, and Tarion only needs to insure when the builder defaults. Keep in mind, the builders Tarion registers should be capable of covering future repairs as a condition of their registration.

In 2017-18, Tarion paid out only 18% in claims. That's only compared to what they are collecting in home enrolment fees. If you compare the Ontario New Home Warranty Program with other insurers, it gives you a better idea of how dysfunctional the program has been for Ontario. For example, Intact Financial, the largest provider of property and casualty insurance in Canada, pays out approximately 65% of the premiums they collect in claims. Many Ontarians are unhappy with their car insurer. How do you think Ontarians would feel if they knew that only 18% of their new home insurance premiums are being paid out in claims?

Perhaps Tarion may argue—I hope no one on the committee would—“Well, they're not an insurance company. The builders are the insurance company, and for this reason, they should not be held to the same standard.” I do not believe this argument is true, and I do not believe that most Ontarians would believe this, as well.

Something else I'd like to highlight today is no more anecdotal or less factual. My wife and I attended the Licence Appeal Tribunal for 31 days to get a decision in our appeal of our warranty claims—yes, 31 days. According to the LAT, these were recorded as two pre-hearing days, two motion days, 26 hearing days and one

arbitration day. Some of you might be thinking, “What kind of a person would attend the LAT for 31 days to get a decision?” Well, we got started with our appeal at the LAT. When we did get started, we had no idea it would take this long. In fact, we hoped it would take only three days. So I would say that I was definitely naive at the time, but I was also someone who had a belief that the system in place would be fair, and it was not and it is not.

Just like you might have been thinking about what type of person would attend a tribunal for 31 days, I hope the committee members are thinking, “What type of system, an organization like Tarion, would conduct a dispute resolution with a homeowner over 31 days in a highly legalistic setting like the LAT?” as it was for our case. It took over four years from reporting the defects in our home to Tarion to get a final decision in our appeal at the LAT.

1520

From my understanding, Bill 159 as it stands now will not prevent future homeowners from suffering the same fate if they choose to appeal one of Tarion's decisions at the LAT. New legislation, please, needs to specifically mandate a dispute resolution option for homeowners that is fair and timely.

New legislation to overhaul the program should be a consumer protection issue. It should be an issue that puts your constituents and Ontarians first before politics. Your colleagues, members on both sides of the aisle, especially those who are knowledgeable on the Tarion file, have done this. They have supported ending the Tarion monopoly. These MPPs include Randy Pettapiece, Minister Todd Smith, and former PC critics for the Tarion file, Toby Barrett and Jim McDonnell. In fact, the honourable Jim McDonnell promised, on behalf of the PC Party, prior to the election to get rid of the monopoly. I based my vote for the PC Party on this pre-election commitment to getting rid of the Tarion monopoly.

Thousands of consumers have asked this government to end the Tarion monopoly. How many thousands of consumers have asked this government to keep the monopoly? A government-mandated monopoly does not always serve the best interests of its citizens in a free market. We saw this in the past with Ornge ambulance. The Auditor General has told us that it is not working as it should to protect consumers, and Douglas Cunningham, who conducted an in-depth review of Tarion, recommended that Ontario implement a multi-provider model. Justice Cunningham's review examined different jurisdictions, such as what is happening in other provinces in Canada, to determine the best course of action.

The Acting Chair (Mr. Mike Harris): You have one minute left for your presentation.

Mr. Jeffrey Ferland: Thank you. Ending the monopoly will not slow down the building industry or our economy. It will truly rebuild consumer confidence, reward good home builders and encourage more than it does now to get consumers to buy new homes. And also important, ending the Tarion monopoly will better protect new homeowners from defects in their homes.

Because of the limited time, I haven't been able to present a number of other points and I've submitted those written. I hope you take the time to look at them.

As I have a few seconds left, I'll quickly say that very little is covered with the Tarion warranty after two years. It is a seven-year warranty but only for major structural defects, which is very, very limited, and few, if any, people are able to claim that.

The last thing is that Tarion, unlike any other DAA, delegated administrative authority, is able to make their own regulations, and because of that it's shielded from so much liability, and we experienced that at the LAT. So please look at my written submission and find out more information about these important facts. Thank you.

The Acting Chair (Mr. Mike Harris): Thank you very much. Again, perfect timing. We're getting the train back on track here. This is good.

Our first round of questioning will go to the official opposition. You have eight minutes. MPP Rakocevic.

Mr. Tom Rakocevic: My first questions will be to Mr. Ferland. It's really—"unfortunate" is not a good enough word to describe the fact that you had to fight tooth and nail for your family at the LAT. But you did mention that there were some other things that you put in written submissions. I'm very happy for you to take some more time here to express what you didn't have a chance to within your seven minutes.

Mr. Jeffrey Ferland: I'm going to talk from the top of my head because I'm very knowledgeable on this issue. One of the analogies I like to look at is the car company analogy. I mentioned in one of the last points that car companies offer two-year, three-year warranties. I know for the last car I bought, I had a three-year bumper-to-bumper warranty. You don't get anything close to that with Tarion's warranty, and I encourage all the committee members who are deciding on this bill to look at what's actually included in the Tarion warranty.

I've purchased two new homes in Ontario. The first one was a home that shortly after I moved in—I moved in in about two years; the home was two years old—I noticed that water was leaking into the home through the corner of the foundation. It was a lack of concrete there. So I called Tarion: Does it cover the water coming into my home? It's coming right through the foundation. They said no. After two years, that's not covered. What was covered at that time in 2004 was only the major structural, which is very, very limited. Since then, they've added radon, but this major structural is very difficult to claim. Few, if any, people claim that. So the warranty, in my experience—and in reality, if you look at the website—is primarily a two-year warranty.

Not everyone would do what I did. I dug up the backyard. It was a townhouse, so I couldn't get heavy machinery in there. I physically dug up the backyard of my home and I patched the wall with the wrap that goes around the home. I got the work done myself, but not everyone will do that.

It brings up a condition called patch and run. I hope the committee is aware of this. What happens is, these defects

are in the homes because they're not getting repaired and homeowners are passing them on to the next homeowner. When I did the repair, I think I did a good job. I don't think I passed that defect on to another homeowner. But the reality is that it gets passed on.

The fact that this monopoly has been around for 40 years and they're only offering a two-year warranty just speaks for itself. If it was opened up to competition, we would have an option like a consumer. If we had a car, to use an analogy, that had a three-year warranty or a car that had a two-year warranty, which one would we pick?

Mr. Tom Rakocevic: Mr. Ferland, I appreciate you bringing up the concept of patch and run. I really do commend you and so many others who actually tackle this head-on. It comes at a cost to you, absolutely, in so many different ways. It's courageous to do what you do because you're doing that for everybody, and I appreciate that.

You're aware of the opposition private member's Bill 169 that does move to a multi-warranty provider and brings in an immediate administrator.

Are you aware of some of the opposition amendments to Bill 159?

Mr. Jeffrey Ferland: If you could quickly review them, I think that would be helpful for me.

Mr. Tom Rakocevic: Sure. At the same time as the government put forward this bill, there was a bill, my private member's bill, called Bill 169, that looked to introduce a multi-warranty model to home warranties in this province. It also looked at immediately appointing an administrator to make all the immediate fixes put forth by the Auditor General. Maybe you haven't seen the bill. Do you support that in principle?

Mr. Jeffrey Ferland: Definitely. When the bill came out, I did take a look at it, and in principle, I definitely support it.

Mr. Tom Rakocevic: We also had a number of amendments to this existing legislation. We've heard people say that there continue to be conflicts of interest on the board of Tarion and HCRA. The question is: Do you feel confident in the existing boards that they're proposing? Do you believe that there is enough of a consumer protection flavour to them to really protect new homeowners in this province, as stated right now?

Mr. Jeffrey Ferland: No. I think it should be a consumer protection board. That's the purpose of it.

An interesting question that came up when I was reviewing my notes for the presentation here: I was thinking that the new delegated administrative authority that's supposed to be licensing and registering builders—I'm just wondering how many consumer advocates they're going to have on that board.

I've followed this issue for so long. It's just puzzling to me how people who are so knowledgeable on this issue—not even speaking of myself, but Karen Somerville and Barbara Captijn—have never been, as far as I know, even approached to sit on that board. I've looked at the membership on that board and I don't see people who are consumer advocates. I see builders and I see government

officials. I don't see people who I see writing about it or advocating for consumers.

1530

Mr. Tom Rakocevic: Mr. Ferland, if I understood correctly, Tarion reform, home warranty reform was a ballot box issue for you in the last campaign, and for some others you spoke to. You perhaps even went with that being the number one issue for you. How do you feel about the government right now with regard to this issue?

Mr. Jeffrey Ferland: I've been following this so closely. I went through so many ministers. This is the problem. The government is saying, "This time it's going to be different." I've heard this. Before Douglas Cunningham's report was issued—

The Acting Chair (Mr. Mike Harris): One minute remaining.

Mr. Jeffrey Ferland: —the minister at the time, Minister Oraziotti, said, "I'm confident that the review will show how good of consumer protection Tarion is." This is what he said before the review came, and it didn't show that. Sometimes ministers are wrong.

I'll be honest with you: I know this is a partisan issue. I see how the voting goes, and I see everyone is lined up on one side and everyone else is lined up on the other side. I don't know the partisan vote as well as you do, but I can imagine if the minister is a PC minister and their policy is, "We're not going to go that far. We're not going to give up the monopoly," then I can see the PC members falling in a row. It shouldn't be that way. It's quite disgusting, to be honest with you.

The Chair (Ms. Goldie Ghamari): At this point, we'll turn to the government for a first round of questions. MPP Sabawy, the floor is yours. You have eight minutes.

Mr. Sheref Sabawy: Thank you very much, Jeffrey, for the very detailed encounter with Tarion. It's very sad to hear such stories, and not only from you, but from many of the homeowners who felt that Tarion wasn't responsive to their, I would say, legitimate needs. That was the whole meaning of creating the entity—to protect homeowners. But through the many years they have been in business, they have actually been more into the builders, and they are basically dominated by the builders, which made them not capable of doing their main job, to protect the homeowners.

The whole meaning of this legislation piece, which is actually coming in reflection and response to the Auditor General's report, is to make sure that it's balanced in a way. As you might have heard in some of those submissions, we understand that the Tarion board has to have some of the builders to represent the builders' side of the equation, but we need to make sure that it's balanced and it has some representation of the homeowners, to make sure that it's functional and it can do what it's meant to do.

I was fascinated a little bit about the numbers you introduced in your presentation or your submission. I don't claim that I know too much details about it to be able to validate where this is coming from, why the number is so low. But again, my understanding is, the function of

Tarion is not actually to pay claims like a normal insurance policy. It's just to make sure that the builders are held accountable to, I would say, the misconstruction or malfunction of their production, and force them to do the needed repairs.

From my point of view here, as legislation—I'm not talking about regulation; I'm talking about the legislation—I see this Bill 159 is creating that balanced approach. We still need to continue the regulation to make sure that two years' coverage or five years' coverage or 10 years' coverage, what exactly it covers—and that's not needing legislation; that needs regulation. Again, from my understanding about the discussion we had about Bill 159, there will be another consultation open for homeowners and any interested body to talk about the regulation of that—the details about what it covers, how long it will cover it for and all kinds of aspects of that.

In the current legislation we have, Bill 159, in your opinion, what needs to be done to make it acceptable to you as a homeowner?

Mr. Jeffrey Ferland: You brought up a lot of interesting points. You said, what would make it acceptable to me?

Mr. Sheref Sabawy: Yes, as a homeowner.

Mr. Jeffrey Ferland: One important thing is that they're not paying out 18% of the money they bring in from homeowner premiums. If they bring in \$45 million or \$48 million in 2017-18, they shouldn't be paying out \$6 million or \$10 million in claims. This distinction of saying, "Well they're not an insurance company"—that is the biggest argument to make. Open it up to insurance companies because then we will be getting the value for our money. We will be getting the 65%, the 70%, and it will fall under the insurance regulator. From the Douglas Cunningham report, he recommends that. He recommends that they fall under the insurance regulator in Ontario. They don't.

I had a good conversation with a very knowledgeable person in the insurance industry yesterday, and he was just amazed at the numbers in the report. If you want to look at the report, it's posted online; it's part of my written submission. Every committee member should be looking at the 2018 annual report from Tarion, pages 50 and 51. Look at those numbers. See what that tells you. Compare that to what other insurers are paying out. You can compare them. I don't buy the argument that they aren't an insurer. You can say, "Well, the builder insures them first and then they ensure that the builder pays them. They're ensuring the builder pays." This is an excuse, in my opinion.

To answer your question, that needs to be fixed. Their numbers would have to go up from 18% to 65% to be competitive with the other insurers on the market. To be honest with you, I do not think the current system in Tarion is capable. They have a culture. It's a dynasty. It's something that's built into it.

There has to be a new model. We've had 40 years to do it, so it's not acceptable to say, "Okay, this time we're going to do it," and then go down the road. I've been

watching this very closely. I don't think many of the committee members have been watching as closely as I have, especially since 2012. A new minister comes in and says they're going to work with Tarion. Another one comes in: "We're going to make it different this time," and it doesn't work.

We need a new system. Part of being in a democracy is that we can learn things and legislation can change. We can update 40-year-old legislation, update a 40-year-old model and make it better. We don't have to stick with that or tinker around the edges, and I think that's what's happening.

We need to get the claims up from 18%. The committee needs to look at those numbers. You need to go to the link that I provided in my written submission and look at those numbers and see that they paid out \$6 million in claims in 2017 and they paid out almost \$30 million in their own salaries. That's disgusting. You can say their job is different, but it's not. They're ensuring the builder does it. In fact, their liabilities—and this is what I was informed by the person in the insurance industry yesterday—should be last, their actuarial liabilities. They don't pay commissions for the insurance they sell, and the builder actually pays the claims. They're supposed to. They only cover when the builder defaults.

If you look at the numbers, it tells you, and the Auditor General said as much—

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

Mr. Jeffrey Ferland: Yes, thank you. The Auditor General did not do a look at all the other jurisdictions, but the Tarion review did. It took almost a year to do that.

I'm always impressed by the intelligence and the hard work of all our MPPs, and I met with a number of MPPs, but I'll tell you, there are a lot of parts of this issue that maybe some of the committee members are not aware of. Regulations was one of them, and it was really important in our case.

Tarion has made their own regulations. In fact, I included an email from Tarion, correspondence where they actually refer to their regulations as legislation, and that speaks to the culture of Tarion. They say in the email that we had no timeline for our claims, and that's why we waited over—we had to file a claim at the LAT for them to actually enter a decision, two and a half years later. They did not—

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

We'll now turn to the independent Green Party member for this round. You have six and a half minutes. MPP Schreiner, you may begin.

Mr. Mike Schreiner: I want to thank all three presenters for being here today and sharing your insights.

My first question is going to be for Mr. Prins. Sebastian, you had put a chart up there showing that the average compensation for Tarion was not the highest, but pretty darn close to being the highest of all the DAAs. After the Auditor General's report, after we've had numerous homeowners like Mr. Ferland and others who have talked about horrific stories they've had with Tarion, after Justice

Cunningham's report, do you feel that Ontarians are getting good value for money from Tarion?

1540

Mr. Sebastian Prins: Maybe I'll also put that back on the screen, just so we can see it in the background.

All of the DAAs lack a lot of oversight. For example, every DAA has the capacity to charge whatever their subset of the industry—to charge fees on that. For example, for RPRA, it's various packaging and products. For the TSSA, there's a whole series of items that they can charge fees based on. When the Ontario government looks to increase a fee—non-tax revenue—they basically have to approve it, publicly post it. There's a very public, front-facing process for that. In fact, there's something called Eurig compliance—you can actually take governments to court in a world where the fee goes over cost recovery. That's not the same case with DAAs.

A delegated administrative authority is supposed to operate at arm's-length. All of the government policies, the best practices we'd built up over getting bruised knees over agencies for all of these years don't apply to any of the DAAs. They are, as mentioned, allowed to set their own policies. Hopefully, they're not calling them legislation—that is definitely a bridge too far—but they all have the power, the board can approve various policies that associate to their cluster.

As you can see from this chart, predominantly, they are ubiquitously inefficient. Average compensation rates this high—some are fine, but as you can see from this chart, many are not.

The other concerning bit is budget growth. Some of these are very mature programs, and to see double-digit-percentage budget growth is surprising. We suspect that's not something you'd see in a world where the government had more direct oversight. At the very least, you'd see public posting of the fees associated with these items, and that would get additional scrutiny. That's something that doesn't occur here.

Mr. Mike Schreiner: Jeffrey, you seem to be a numbers guy, as well, from your presentation. Looking at this, do you think Ontarians are getting value for money spent when it comes to Tarion?

Mr. Jeffrey Ferland: Thank you for asking that. I'm going to try to share my screen and show you Tarion's annual report. Can you see the report from there?

Mr. Mike Schreiner: Unfortunately, it hasn't come up on the screen.

Mr. Jeffrey Ferland: Let me see if I can get it up.

Mr. Mike Schreiner: While you're doing that—

The Chair (Ms. Goldie Ghamari): Sorry, MPP Schreiner; in the interest of fairness, I'm just going to pause the time so it doesn't eat in due to technical difficulties, until we can see if we can use the "share screen" function. Once it starts, we can resume.

Mr. Mike Schreiner: Thank you, Chair.

Mr. Jeffrey Ferland: I'm going to try to get this to work. I've used Zoom before; I've just never shared my screen.

The Chair (Ms. Goldie Ghamari): There should be a button at the bottom that says "share screen." If you're

looking to share a document, I think the document has to be open prior.

Mr. Jeffrey Ferland: Are you seeing my screen right now?

Mr. Mike Schreiner: Yes.

Mr. Jeffrey Ferland: Perfect.

The Chair (Ms. Goldie Ghamari): I'm just going to resume the time now. There's two and a half minutes left.

Mr. Jeffrey Ferland: Actually, I haven't gotten the screen up yet, so just give me a minute.

The Chair (Ms. Goldie Ghamari): All right. I will pause again.

Mr. Jeffrey Ferland: Thank you. Okay. You see the Tarion—

The Chair (Ms. Goldie Ghamari): I'm going to just resume the time now. There's two minutes and 30 seconds left.

Mr. Jeffrey Ferland: It's going to take me a little while to get there—

Mr. Mike Schreiner: While you're scrolling down, maybe I'll add to the question. Do you feel like Bill 159 is going to solve the decades-old problem that you've identified in terms of protecting consumers and providing value for money for Ontarians?

Mr. Jeffrey Ferland: No, I do not think it will. I'm going to point to the screen that I was trying to get to and I'll show you. This is a big reason why: It's a culture problem. It's a dynasty that has been built.

In 2018, they had \$592 million in investments. That's half a billion dollars. They say their liabilities are \$274 million, so that's where I got the previous number. So we're looking at the kind of money they have, and if you look here, under 2018 and 2017, do you see that \$10 million beside "net claims incurred"? That's how much they paid out in claims. If they still have, after all liabilities, \$275 million, they can pay claims for 26 years without collecting any more from home enrolment fees. If you look at the numbers for 2017, it's worse. They paid out \$6 million.

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

Mr. Jeffrey Ferland: If you look up above, they're collecting \$47 million in 2018 from home enrolment premiums, and \$45 million in 2017. But the salaries they pay are almost \$28 million. They're only paying out \$10 million in claims—and \$28 million. This is not insurance.

Mr. Mike Schreiner: Those are very powerful numbers. Thank you for that.

Do you think the multi-provider system would bring in the kind of fiscal discipline this organization needs to actually protect consumers?

Mr. Jeffrey Ferland: It will, because they won't be able to function with those numbers. The other companies will provide so much more value. Under Justice Cunningham's review, he said that he would allow Tarion, a non-profit organization, to exist. That would give consumers that one more choice. I don't know if you guys have Enbridge and you can go to a third party. There would be that—

The Chair (Ms. Goldie Ghamari): Thank you very much. That's all the time we have for this round of questioning.

We'll now turn to the official opposition for the second round, with eight minutes. MPP Glover, you have the floor.

Mr. Chris Glover: I know MPP Rakocevic has some questions as well, so I'll try to be quick about this, but I want to thank all of the deputants for being here today.

I want to continue that question with Jeffrey. Those numbers are really powerful. You're talking about \$47 million in premiums from consumers, \$10 million in payments and \$28 million in salaries. This sounds like a bloated bureaucracy that feeds itself and doesn't actually provide any protection to consumers. Is that a fair assessment, a fair description? My question is for Jeffrey Ferland.

Interjection.

The Chair (Ms. Goldie Ghamari): Jeffrey, I've paused the time. Jeffrey, you need to unmute your mike on your end.

Interjection.

The Chair (Ms. Goldie Ghamari): Sorry; Jeffrey, we can't hear you. You have to unmute your microphone on your end.

Mr. Jeffrey Ferland: Sorry about that.

The Chair (Ms. Goldie Ghamari): That's okay. I'm going to resume the time now. The time was paused.

Mr. Jeffrey Ferland: Okay. Yes, the question—

Mr. Chris Glover: Do you want me to repeat it?

Mr. Jeffrey Ferland: Yes, please.

Mr. Chris Glover: What you've just shown us—and I hadn't seen this before, so thank you for bringing it up. I'm going to take a more detailed look later. You said there are \$47 million in premiums, \$28 million in salaries and \$10 million in payments in the previous year. It sounds like a bloated bureaucracy that feeds itself and doesn't actually provide any support or payments for consumers. Is that a fair description of what you're describing?

Mr. Jeffrey Ferland: It's very fair, Mr. Glover. I appreciate you asking this. I really beg all the committee members to sit down as a group and just look at these numbers and what they mean and even, on top of that, sit down with someone who's in the insurance industry and see if this is good value. This is very important to do. We can talk about all of these horrible stories, but the numbers say so much.

On top of that, Mr. Glover, they spent \$13 million on general administration fees. They paid more in general administration than the claims they're paying out. This is not an insurance company or a surety company or whatever you want to call it.

I really speak to the member before you, the MPP who said that they're not really an insurance company. Well, that's even more reason to get the insurance companies in there and provide this service for homeowners. These numbers are truly disgusting.

1550

Mr. Chris Glover: As a taxpayer and a consumer, you see now a half a billion dollars accumulated in assets by

this agency. If this agency, Tarion, was to be broken up, what should happen with that half a billion dollars?

Mr. Jeffrey Ferland: Excellent question. It's another thing that I'd like to speak to.

I met with the ministry about a year ago and I even put some proposed legislation in there. We should bring in a multi-provider model. I think the way I proposed it, liability can be split between the builder and the municipality because the municipality does a lot of the inspections.

The first thing that municipalities will probably say is, "Well, we're going to take on another liability here." That can be divided up amongst the municipalities, and say, "Here, this is what's coming. Use this to get ready." That will make so much more accountability in the system. The homes will get inspected, because right now they're not getting inspected until after homeowners move in. They're getting inspected by the municipalities prior. So that money, that half a billion dollars, could be sent off to get ready to that and to become liable—which they already are liable right now for, so there's no increase in liability.

Mr. Chris Glover: Actually, the post-construction inspection sounds like a really good idea.

I'm going to pass it to my colleague. I want to thank you for being here, and I also want to thank Sebastian and Peter for being here.

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

Mr. Tom Rakocevic: My next questions are for Mr. Prins. First of all—correct me if I'm wrong—you alluded to something about a lack of oversight re data privacy. Some officials weren't allowed to investigate. Did I mishear?

Mr. Sebastian Prins: No, that's correct. Because all DAAs are exempt from FIPPA and the Information and Privacy Commissioner, we've been going back and forth on what we feel is a data breach for the Ontario Electronic Stewardship. They basically are in the process of winding down, and there are new producer responsibility forces that are going to be spinning up next year. A bunch of their supply chain data was, essentially, shared by the regulator to some of the entities that are going to be competing in that future pro-market regulated space. That's something that our members feel shouldn't have happened, that the OES feels shouldn't have happened, and a letter was shared with the authority that oversaw that expressing our disappointment.

Unfortunately, the Information and Privacy Commissioner cannot investigate further into that because all DAAs are exempt from FIPPA. That means you can't FOI a DAA. It also means that you can't investigate items like this.

Mr. Tom Rakocevic: Some of what you said about this legislation—aren't there things that could be fixed right now? These are things that could be changed legislatively right now. When you talk about being somewhat supportive of this, are you just being nice?

Mr. Sebastian Prins: This certainly goes further. This is a step forward. There is more board accountability than we saw prior to this legislation, so those are positive steps.

RCC would encourage—like I mentioned before, agencies are very time-tested structures. Treasury Board policies, as an example, are something governments put in place for significant reasons because of years and years of—for lack of a better term—mismanagement or oversight that's occurred. So moving towards that time-tested structure, we believe, would certainly help and provide a lot more transparency and would aggregate DAAs back onto the government's books, which we see as another beneficial item, as DAAs right now are not, and that encourages government to make more of these structures in an effort to have the appearance of lower budgets.

Mr. Tom Rakocevic: Understood. But these are all things that could be resolved with legislation.

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

Mr. Tom Rakocevic: The last thing is, do you think there should be more Ombudsman access to all?

In case you go for the one minute, I just wanted to thank you, as well as Mr. Maddox, though I didn't have a question for him, for being here, and all the people in this presentation group.

Shouldn't there be Ombudsman access to all DAAs?

Mr. Sebastian Prins: That is something that would be achieved by moving DAAs over to an agency structure. You'd see things like the Information and Privacy Commissioner would be able to review potential data breaches, Ombudsman access. The Auditor General often has the ability to review, and there is some Ombudsman access there, but it's not ubiquitously the scenario that all of the various officers of the Legislature have access to DAAs, which is the case with agencies.

Mr. Tom Rakocevic: So you agree with it and they could do it, but they're not?

Mr. Sebastian Prins: Hopefully, there will be additional revisions—

The Chair (Ms. Goldie Ghamari): My apologies. That's the time for this round of questioning.

We're going to now turn to the government for their questions—eight minutes. MPP Bailey, you have the floor.

Mr. Robert Bailey: I'd like to thank all the presenters from the get-go.

My questions and comments are directed to Mr. Maddox. I wanted to ask him about what proposed amendments that we're looking at, as far as the Consumer Protection Act, would impact independent sales consultants and businesses? We also agree with enabling administrative penalties under the act—if that would strengthen the protection for consumers.

Mr. Peter Maddox: Mr. Bailey, can you repeat the question? It just dropped out a little bit there.

Mr. Robert Bailey: Okay. Two questions: With the proposed amendments that we're talking about to the Consumer Protection Act, if implemented, how would they impact independent sales consultants and businesses? And second, do you agree that enabling administrative penalties under the act could strengthen protection for consumers?

Mr. Peter Maddox: I think I'll go with your second question [*inaudible*]. Definitely, they will protect consumers a little bit more than currently. Maybe that's just as [*inaudible*] in action, but any financial penalty is often seen as a very good way to stop people acting nefariously in the first place.

Our suspicion is that they're not really aimed at the direct sellers or the independent sales consultants that we deal with. If anything, they're aimed at [*inaudible*] people going door to door selling hot water cylinders or air filters or those sorts of things. We've heard of people, obviously, going into homes or taking advantage of people who either aren't mentally competent or have English as a second language. It's very much there to protect against that.

Our concern with this is that sometimes things that are written to protect against that group sort of [*inaudible*] what our people do. An example of that is from a previous update to the act whereby, basically, any uninvited [*inaudible*] house was banned. As I mentioned, our members don't typically do that, but what they might do—the Mary Kay lady or the Avon lady might drop off, go to a friend's house [*inaudible*] a leaflet in a letter box or even knock on the door and give it to her friend. Under the act currently, that's illegal, because you're not allowed to go and visit anyone unless you're invited because it's considered a sales call.

We're just wary that [*inaudible*] happen, and from there someone could take that the wrong way and it could result in a fine or something like that for the independent sales consultant. [*Inaudible*] happen. We expect and we hope that common sense would prevail in a case like that, but that's just an example of where it can sometimes impact [*inaudible*].

Ontario, for our industry, is actually one of the best provinces to do business in. There's a very common-sense level of legislation, and we're happy to see that continue.

Mr. Robert Bailey: I'll yield to some of my colleagues.

The Chair (Ms. Goldie Ghamari): Further questions from the government side? There are four and a half minutes left. MPP Pettapiece, you have the floor.

1600

Mr. Randy Pettapiece: Mr. Prins, I'm going to ask you a question. Do you agree with the proposed changes to the Resource Recovery and Circular Economy Act?

Mr. Sebastian Prins: Yes. Right now, there is no capacity for the minister to appoint the chair of RPRA, the Resource Productivity and Recovery Authority. According to us, that has been quite a detriment, that there is no direct relationship between the minister and the board. There has been a lot of membership outreach, I'll say, in conjunction with that being put into the legislation. We had dozens of our largest members send letters over to MGCS in support of the addition of that clause, just because our membership believes that that reporting link will help to make some moves on policy that we have seen the authority is unwilling to move on.

Just as some examples here: When our membership have to report in, there has been very, very little flexibility

by the authority in recognizing existing structures that have existed throughout Canada for years, like something called a remitter agreement, where we would report on behalf of someone else. Not recognizing that seriously impedes and causes a lot of red tape throughout the stewardship system. That's something that our members have time and time again spoken to the authority about and asked them to consider or to move on. By having a chair who directly reports in and basically is appointed at the pleasure of an elected official gives RCC more options in terms of discussing policies that have significant financial impacts on our membership in doing business.

Mr. Randy Pettapiece: So you would think that it's going to have a positive impact on your members—I think you mentioned red tape—and a monetary impact on your members?

Mr. Sebastian Prins: Certainly, yes, precisely that. We believe that more lines of reporting between boards and ministers' offices are extremely positive things to encourage and to have, and that that will lead to policies that make sense and cut red tape.

As well—I shared that list of budget increases before, and many of the DAAs saw budget increases of double digits last year.

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

Mr. Sebastian Prins: That's something that government oversight—the more lines of reporting between a minister's office and the authorities, the various DAAs, the less likely that is to occur, in our opinion.

Mr. Randy Pettapiece: Those are all my questions, Chair.

The Chair (Ms. Goldie Ghamari): If there are no further questions, that will conclude this round of questioning. I'd like to thank our presenters for joining us today. You may step down.

PARK LAWN CORP.

DR. NANCY LEE

MR. WILLIAM HILLIER

The Chair (Ms. Goldie Ghamari): While we wait for our third presenter, I'm going to ask Park Lawn Corp. to begin their presentation. You will have seven minutes. Please state your names for the record, and then you may begin.

Mr. Eric Vandermeersch: My name is Eric Vandermeersch.

Mr. Dave Laemers: I'm Dave Laemers.

Mr. Eric Vandermeersch: We're obviously in the death care space. We operate a number of funeral homes and cemeteries throughout Canada—and the United States, but that doesn't really matter for this conversation. It is our understanding that Bill 159 will be taking certain government organizations that are currently at arm's length from the ministries and bringing them in closer or under the wing of the ministries. We think that's a really great thing, especially in our industry, with the Bereavement Authority of Ontario. We're a company that, in many

of our business units, operates in fear of what they will do, based on our experience, because there is really no due process for them to follow and there's really no way to check them on how they operate.

We think that an organization like the BAO that governs the death care space, where people are being served at their most vulnerable time, is an absolute necessity. It's extremely important. We have had great relationships with previous organizations in that space, but that being said, they still need to have due process that they have to follow for the times when their people make mistakes. We think that Bill 159 would do that quite well. We support it, and we think it's extremely necessary in our industry and any other industry where there isn't leadership from an unbiased government organization.

Dave, do you have anything to add to that?

Mr. Dave Laemers: I'm a manager at Basic Funerals and Cremation Choices. We're one of the business units of Park Lawn. As one of the busiest funeral homes, probably, in the province of Ontario, we had some run-ins with the Bereavement Authority of Ontario a couple years ago. That's why I'm here on the call.

We do live a bit in constant fear of potentially being shut down unjustly by the Bereavement Authority of Ontario, because they told us that they could do that. Our industry is very sensitive and we do rely a lot on staff and employees. They've told us that a human error of the wrong type could shut down our company. It's just not the sort of collaborative spirit we expect out of a government organization. I think that is our biggest focus, as well as maybe the board of directors and some of the people on the board of directors.

Mr. Eric Vandermeersch: Yes, the last point would be that if people who you compete with in business are in charge of how much money employees at a government organization like that make, you have a massive conflict. We just want to see that kind of thing disappear, and that's really all we're here to say.

If anyone has any questions, we're happy to answer them. We don't have to take up any more of our seven minutes.

The Chair (Ms. Goldie Ghamari): Just to let you know: The way that the committee rules work is that each presenter has seven minutes. If you don't use up your seven minutes, it's not going to be added onto further questions. At this point, you do have an additional three and a half minutes if you would like to continue; otherwise, you can yield the floor for questions. It's up to you.

Mr. Eric Vandermeersch: We will yield the floor, thank you.

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

Our next presenter: We're going to go to Nancy Lee. Can you please state your name for the record, and then you may begin. You have seven minutes.

Dr. Nancy Lee: Hi. My name is Nancy Lee. Dear members of the committee, I want to start off and acknowledge that everybody in the room knows that Bill 159 does not actually rebuild consumer confidence.

In the big picture, the monopoly model still continues for the new home warranty instead of the multi-warranty model recommended by Justice Cunningham in the 2016 Tarion review. His recommendation of a multi-provider system provides competition, better management and deeper oversight. Oversight is available and already exists in other examples in Canada—for example, in Alberta—so we're not starting from scratch here.

Second, the dispute resolution process still continues with the LAT, and there's no independent ombudsman. The current Tarion ombudsman does not fulfill the criteria of a true ombudsman. It's actually a glorified internal department with Tarion employees.

Third, Tarion continues as an administrative authority, and this DAA model doesn't have oversight by the Ontario Ombudsman. It's not subject to government laws, as you know, for freedom of information or protection of privacy, which was studied by Todres in the DAA model review.

Fourth, there is now created another DAA, the HCRA, the Home Construction Regulatory Authority, but it still has the same AA problems as Tarion, and even has former Tarion board members.

Today, in looking at Bill 159, I'd like to ask about some amendments because we're here to look at what are the best options for our patient, the homeowner, who is afflicted with a cancer called Tarion. It has metastasized and it threatens the host now as two: the HCRA and Tarion. Definitive treatment would be a course of action like proposed in Tom Rakocevic's Bill 169, but within the restrictions of Bill 159 today, I propose a more modest but currently attainable change to amend the statutes.

1610

First, let's ask, what's the problem with illegal building? There is an epidemic in Ontario, especially Toronto. The former Tarion CEO was well aware of this, but due to the act limitations, Tarion doesn't have the compliance tools to limit illegal building. They do not have the options available to modern regulators. A broader range of tools would be more proactive, but Tarion has lacked the leadership to advocate for this.

Under the act currently, fines of up to \$100,000 can be imposed by the courts. It sounds great, but what does it look like in reality? Well, in 2014, Tarion paid out over \$900,000 in claims on illegally built homes. This was about 193 convictions in court and fines of about \$400,000, which included some victim surcharge fees. The simple math on this shows that the average is about a \$2,000 penalty per conviction, which is obviously not a deterrent to avoiding a warranty on a new home. As Justice Cunningham stated to the minister in the review, it was apparent there was "room for considerable improvement, including with the legislation itself."

Dear members, I want to ask you, what is your understanding of the laws governing the new home warranty? Do you remember when you were a potential new home buyer, excited, in search of your new home? You were wearing your fun socks, thinking of sunny ways, and then you realized later that Tarion delays, lack of accountability, one-sided dispute resolution, fake government

oversight, lack of inspections, construction defects, mould, homeowner suicide, stress, lawsuits—never did these ideas cross your mind.

Let's see what's the issue with the act in place at this time. Well, the definition of "builder," "owner" and "vendor" are subject to interpretation right now by lawyers. And the application to the real world is very complex. So let's ask a question. Owner-builder situation: Builders aren't required to register a new house for warranty if the builder builds a new house for himself. He doesn't need to register the home. So he's the owner and builder in this case, correct? He would have the title of the house, then.

In a written answer received from Tarion, they answered that if someone builds a new home for themselves, they're not the builder within the meaning of the legislation. The definition of "builder" contains the requirement that the builder is building it for the purpose of sale. If the builder is building it for the purpose of living in it, then he doesn't need to be registered.

The second question I ask is, do you ever wonder if the builder can build a house for a relative and avoid registering the home with a warranty? Does the relative need to register the home? Here's a written answer from Tarion: There's nothing in the definitions which exempts from registration a builder who builds a completed home for the purpose of selling it to a relative. In that case, the builder is the builder and also the vendor, and the relative who buys the home could be the owner. The builder transfers title to the relative, and it seems that coverage would apply. Okay. Note that the builder, in this case, who needs to register, is not actually the relative.

If the builder builds and sells the home without occupying it, they would likely need to register, and then they are not acting illegally. The builder can avoid having to register if they structure the transaction two different ways.

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

Dr. Nancy Lee: You can see that there are various very confusing issues that are difficult for a homeowner to navigate.

In this type of situation, it is known by the CEO of Tarion that the act is limited. They worked on pilot projects to deal with illegal building, and they realized it is not effective. The Tarion pilot program is not effective, as stated by the Auditor General in the 2019 report, and Tarion's own response is that they want to adopt the British Columbia approach to owner-built exemptions. So I propose that we amend the statutes in Bill 159 to prevent the loopholes for illegal building so that there is clearer language, like what's present in the BC Homeowner Protection Act. This was advocated by Justice Cunningham. He has provided us the road map—

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

I will now turn to our third presenter, William Hillier. Please state your name for the record, and then you may begin. You will have seven minutes for your presentation.

Mr. William Hillier: My name is William Kenneth Hillier. I live at 52 Astrolabe Place, Orléans, Ontario.

Members of the standing committee, thank you for allowing me to pass along information with the aspiration of generating assurances that any charges being made to the Ontario New Home Warranties Plan Act and Tarion are being initiated with the primary consideration of the Canadian consumer and new home buyer.

Before I delve into my presentation, be it known that I have had several past dealings with the Ontario New Home Warranty Program.

In 1984, I purchased a new home. The Ontario New Home Warranty Program was relatively new at that time. The builder was nervous when approached, via the new home warranty, with problems and the threat of soliciting the Ontario New Home Warranty Program for assistance. At that time, the builder actually [*inaudible*].

In 1993, I bought a new home from a supposedly—word of mouth, of course—reputable home builder. I bartered back and forth for two years, asking the builder to complete repairs—which occurred during the construction. When I finally called upon the Ontario New Home Warranty Program, I did not get ahead any further on completion dates. I finally went before the tribunal, where I had to present my problems to a board consisting of individuals from several other home builders, and I was confronted by a learned lawyer hired by the home builder of my residence. I do not have to tell you the outcome, but I will: I lost. My guess at that time was that the home builders had infiltrated the warranty program, so much so that the organization was now an administrator for the builder and not the new home buyer.

The Ontario New Home Warranty Program was supposedly updated shortly after the incident in 1993. Its name was changed, and it is now a monopoly administered by Tarion. The only part that changed was the name, from "Ontario New Home Warranty Program" to "Tarion."

In 2017, I once again purchased a new home from a supposedly reputable home builder. Here it is, 2020, and I'm still fighting with the home builder and Tarion to correct deficiencies in my new home. I waited two years for them to clear out mould and stop the leaking in my basement.

I could go on—but I want you, as representatives of the Ontario homeowner, to understand why I appear before you today.

A short time ago, a news article appeared from Ms. Lisa Thompson, Minister of Government and Consumer Services. In her message, Minister Thompson stated that the government was "introducing proposed legislation through the Rebuilding Consumer Confidence Act, 2019, that would, if passed, overhaul the Ontario new home warranty and protection program and the Tarion Warranty Corp. to reduce the role of builders and provide more focus on protecting consumers."

I have been a new home owner four times over the last 40 years and am living proof that revamping is not what is needed to be done with Tarion. From the experience I have shown, in my opinion, Tarion is there for the protection of the home builder and not the homebuyer. What are the odds that a current new home buyer purchasing a new

home will encounter many issues and will not have to fight all the way to the ends of the earth to obtain assistance and, at the end of the fight, be advised, “There’s nothing wrong. This is normal. It’s not covered under warranty,” or, “The problem is between you and the home builder”? It is happening to me and several neighbours on my street alone—I do not have the exact number.

The home warranty program came into effect in the 1970s, was revamped in 1990, and still there are a magnitude of problems in 2020, as the government is once again revamping the program. The home warranty program does not work. Revamping it will not make the problems go away. The state of affairs requires replacing the old with the new, and with an administration that is outside the influence of the builder community.

1620

In 2015, the government of that period initiated a review of the Ontario New Home Warranties Plan Act. The Honourable J. Douglas Cunningham, whom I might add is a hard-working Ontarian who has spent decades as “a highly successful ... arbitrator and mediator based in Toronto and Ottawa, with retainers across” the country “and internationally,” was appointed to conduct the review. The review was completed and a detailed report submitted.

The new, current government campaigned on issues about Tarion. The current Premier of Ontario, Doug Ford, stated on Twitter in February 15, 2018, “Government should not have a monopoly on any business. I can’t stand it when politicians think they can run things better than hard-working Ontarians.” Minister Thompson has—

The Chair (Ms. Goldie Ghamari): Mr. Hillier, you have one minute left for your presentation. Thank you.

Mr. William Hillier: Well, I guess I won’t have time to finish. I’m sorry.

The Chair (Ms. Goldie Ghamari): I’m sure that you’ll be able to finish your statements through questioning, but you do have one minute left for final thoughts.

Mr. William Hillier: Okay, thank you. This is the second committee established to amend the various statutes in respect to consumer protection. Already six months have passed since the first committee meeting, January 22, 2020, in Ottawa, Ontario, but apparently it appears nothing has been accomplished. I’ll leave it at that.

The Chair (Ms. Goldie Ghamari): Thank you very much, Mr. Hillier. I’m certain the committee will be asking you further questions so you can explain more about your perspective.

At this point, we’re going to turn to the government for the first round of questioning. There will be eight minutes. MPP Kramp, you may begin.

Mr. Daryl Kramp: Welcome to all of our witnesses. Thank you very kindly for coming here today. It’s tremendously important that we do hear from you.

My first question I will ask to Mr. Hillier. Mr. Hillier, I noticed in your deputation and support and the comments in your previous testimony that you believe that we do need increased inspections, and that our inspection capacity isn’t really adequate or up to date. I’m wondering

if you would like to either comment on when you believe we need more of them and/or if it is a frequency request that you need on the one site. Your thoughts?

Mr. William Hillier: The problem with inspections is that I don’t think they’re frequent enough and there are not enough of them. If you are only inspecting one house in 10, that doesn’t solve your problems. You’ve got to have more than that. In reality, I don’t think we can do more than that because there are not enough inspectors, and I think the city has to get going and hire more inspectors.

Mr. Daryl Kramp: I hear a lot, whether it’s builders or even sole proprietors, “My goodness, we’re inspected to death. We have electrical inspectors, plumbing inspectors, municipal inspectors, health inspectors.” Of course, all of these are necessary, but from the point of construction and warranty, do you find that the qualifications of the inspectors that you have seen on the job and/or experienced are up to snuff?

Mr. William Hillier: I can’t make a judgment on that. From the people I’ve talked to, they are knowledgeable. But I think the problem is that the on-site supervision needs to be more from the builder himself coming in to make sure that these people are coming through and doing proper inspections.

Mr. Daryl Kramp: You mentioned that Tarion, when it comes to building repairs, simply just have the two short windows, the two 30-days periods, both at the beginning and the end of the year. Do you find that sufficient, or what do you suggest as far as being a more acceptable, efficient and effective time for inspections?

Mr. William Hillier: Well, I don’t think you can control the homebuyer by saying, “You can only submit your problems if they’re within 30 days at the first initial phase, and then you can’t submit any more until 30 days prior to the end of your year.” I think if you’re under warranty for a year and something happens, that should be addressed immediately—not having to wait a year to resubmit it again.

Mr. Daryl Kramp: If you were even a private builder instead of a major developer, generally they will advance funds based on the construction schedule, whether it’s with a basement set-up or whether it’s closed in. With their time frame for advancement of money, obviously you have to go with an inspection. Would an inspection during those parameters be acceptable in your mind?

Mr. William Hillier: Well, if you want money, then show your work. When you hire somebody to do something like that, they say, “Give me a starting amount.” Okay, well, you’ve got to have money to start, so you give them a thousand dollars and they start the job. Then they come back and say, “I need more.” Well, show me proof that you need more, and then continue from there. But it needs to be monitored very closely. If you become a big builder, you got there by doing this, hopefully, but now you have to maintain it. Now what they’ve got to do is—they become greedy and try to cut costs, avoid this and avoid that etc.

Mr. Daryl Kramp: Point well taken.

I’ll pass my remaining time over to my colleague now.

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

Mrs. Daisy Wai: This question is directed to Nancy Lee, please. Thank you very much for coming and sharing your views as we consider this very important legislation. We understand your concerns and the issues that you have directed to us, and we also understand that you have participated in the ministry's consultation and making deputations to standing committees and everything.

I have a question for you, and I hope you can help us so that we can understand and we can have better information. Based on your experience, what do you see as the most important way of protecting parties who are new home buyers?

Dr. Nancy Lee: I think the most important thing is that it has to be embedded in the legislation. You have to open the model from a monopoly into a multi-warranty model. That is what was recommended by Justice Cunningham in 2016. We see the model in Alberta. We see it in other provinces like BC. If that's the only thing you can do—and it has to be put into the legislation.

If you expect Tarion to change their policies internally and do so, it's going to be impossible, because they can't manage themselves. There's no oversight. As you know, it's a DAA, and you, the government, have no ability to have proper oversight over them because it is a DAA. It's the legislation which allows this. So if you can open it up to a multi-warranty model and change it so that it is not a DAA, I think those are positive things that will help to break open the box and make it accountable.

Mrs. Daisy Wai: I understand that BC has implemented this, and they also have different kinds of concerns and different kinds of difficulties—especially, the smaller builders would not be able to participate with this new model. Any comments on that?

Dr. Nancy Lee: I don't have a problem with smaller builders. Actually, the builders that I have dealt with are smaller builders. They don't have a problem. They would be building, and if they are building properly and doing proper construction—

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

Dr. Nancy Lee: —they would be able to get a proper backup warranty through their insurance provider. So I think that's a red herring. That's not really the major issue here. I know that Tarion is putting that up as an issue, but that's not significant.

There are always problems. Nothing is perfect, but what is better? What's the best option that we have? That's the multi-warranty model by Justice Cunningham. He's an independent arbitrator. He makes this recommendation. I would go with his recommendation.

1630

The Chair (Ms. Goldie Ghamari): If there are no further questions, we'll turn to the official opposition. MPP Rakocevic.

Mr. Tom Rakocevic: As I'm sitting through committee, I've been having a bit of, I'd say, a reflection on the situation regarding Tarion. I'd first like to share that reflection with Mr. Hillier, since you have purchased

multiple new homes and you've been dealing with the system now for decades.

We've gone to committee already on this, and we've heard from people who have made deputations. The ones who have basically had your experiences, from the perspective of being new homeowners, pretty much have said that they think this legislation does not go far enough, they're not happy with board composition because of industry control that will continue to remain. Overall, they don't seem to have a lot of faith in real, true, bold protection.

Interestingly enough, we don't see the industry coming here themselves. We don't see builders appearing in committee, allowing themselves to be asked questions by us. But it seems like the legislation that we're looking at is something they would probably support, as opposed to those who are seeking consumer protection.

What do you think is going on here?

Mr. William Hillier: That's a very good question. What's going on? I don't know. It's almost as if the government is taking the side of the builder as opposed to looking after the buyer.

If you have to buy a house, in order to buy a house, you have to go through a lot of paperwork in order to get a mortgage, just to sign it up. I think if they're going to build a house, they should be doing the same thing. There should be set rules there for them to follow, and if they don't follow them, they should be chastised, depending on what the problem is. If they're not following proper code, then they should stand accountable for that. I think that's a lot of the problem—they're working so fast that they put things up and they're not following the code properly, and we're not having proper inspections to make sure that the code is done properly.

My current house, when they did an inspection on that—they kept telling me that there was nothing wrong—they discovered that the house was hardly insulated at all. Then I had cracks, then I had mould, and I had to fight and they said, "Oh, that's nothing. This is nothing." There is no accountability at all. They just push you aside and they hope that if the mould doesn't kill you, something else will.

Mr. Tom Rakocevic: My next question—and if you would like to add to that, Ms. Lee. We will be hearing from the Ontario Home Builders' Association tomorrow. You probably won't ever have a chance to talk to them directly in this format, but if you had a question for them, what would it be?

Dr. Nancy Lee: Would it not be in the best interests of the home builder's reputation to build a home that is to code? It's in the best interests of everybody. You don't want your reputation to be in shreds because some home builder XYZ over there is not building a home to code, and through the loopholes in the legislation, they can get away with it.

Obviously, I'm wondering, why don't you want to have reform? What kind of standard are you holding yourself up to? Do you have a code of ethics? No, there's none. You don't want to. Does Tarion want to advocate for a

code of ethics? No, you don't want to. The standard is so low, and you've kept it low, but in the end, you're going to kill yourself off because you end up killing off the consumer.

The reputation of home builders is not great out there, for renovations or for new home building. But the standard is low so that we all accept, consumers accept, that, yes, of course there are going to be construction defects. We've been conditioned like lambs to follow and accept that this is okay. But I would ask them, why don't you increase the standards for yourself? Aren't you proud of the work you do? That's my question.

Mr. Tom Rakocevic: Mr. Hillier was questioned about building inspections and he went into detail about that. Do you believe, firstly, that this legislation will actually do anything about building inspections at all?

The NDP opposition had an amendment that said, "Let's take information about bad builders and let's pass that on to municipalities to better inform inspectors." The government members voted against that.

Do you believe that they should support such an amendment? And do you believe this legislation will actually help improve inspections in this province?

Dr. Nancy Lee: No. Obviously, this legislation will not help with inspections. There's nothing in this Bill 159 which is going to have inspections done as the new construction is being built. Also, there's a lack of proper inspectors. So there's nothing in this that will do that. It's passing the responsibility—"Well, I'll get away with it if the municipality doesn't find out." As you know, many permits are done, but they're not all 100% inspected. So doing that will not work.

Mr. Tom Rakocevic: As someone fighting for consumer protection and for a better system to protect new home purchasers, does this legislation go far enough?

Dr. Nancy Lee: Absolutely not. This is a very weak, minimal amount of try-to-appease sort of consumer protection, and really, it does not go far enough at all.

Bill 169 is a much stronger bill in consumer protection. Unfortunately, when the Auditor General did the report for the builders, they felt that, "Oh, well, now we have to do something about this," so the government said, "Well, we'll do this, but we won't do too much. We'll tinker around the edges and we'll try to throw these little sardines out to the public. They won't even know. We'll just say it's a great job, it's rebuilding consumer confidence." But it doesn't do that at all.

So Bill 159 is not effective. It's wasting the government's time and the public's money. I'm sorry to tell you that.

Mr. Tom Rakocevic: Mr. Hillier—

The Chair (Ms. Goldie Ghamari): Thirty seconds left.

Mr. Tom Rakocevic: Does this legislation, Bill 159, go far enough? Does this enact proper consumer protection for home purchasers?

Mr. William Hillier: I would say Bill 159 does not. Bill 159 is just a cover-up. I agree with what Ms. Lee said. We've got to get something that makes [inaudible]

builders accountable, and one of the things is if you have a database where you note—

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

We'll now turn to the independent Green Party member for six and a half minutes. MPP Schreiner, you may begin.

Mr. Mike Schreiner: Thanks to the three presenters for coming in today. Your views are much appreciated and very valuable, so thank you for taking the time.

I'm going to direct my first question to Mr. Hillier. Bill, in your initial presentation, you actually quoted the Premier before he was Premier, during the campaign, on what he said about a government monopoly as it relates to Tarion, and then you ran out of time. You're not the first person who has come to committee today who has expressed your frustration about being told one thing prior to the election, and then something else comes out in Bill 159 here. Do you want to elaborate a bit more on that, or did you feel like you got everything out before your time expired?

Mr. William Hillier: They have a good way of giving you lip service, but when it comes down to getting things done, they go in the other direction, which is what they're doing with this Bill 159.

The previous government hired Mr. Cunningham, and as one of the other presenters said, he's a very upscale type of a person and he did a very fine job of writing his report. He detailed everything that was a problem with Tarion and he also gave possible solutions. And then, in the first committee, it was talked about, and they said it wasn't proper because it wasn't dealing properly with—I forget how they put it. Anyhow, it wasn't good enough. They said, "Why not take Bill 159 and Bill 169 and combine them and work together?" I know I'm talking kind of loudly here, because it will never happen.

1640

I don't know how much more to elaborate. It's just lip service. You have to do something to make these builders accountable, so if the work starts showing up that they're not doing a good job, then when you do your research to buy a home, you're going to say, "Well, I won't go with this offer because of all of the problems they have."

Minister Thompson said that they were going to document this, but I don't recall seeing anything documented about all the problems they've had, and they're still getting their licences etc. So where does the consumer come into this? They don't. We just pay our dues and hope for the best.

Mr. Mike Schreiner: Yes, it's pretty frustrating, especially—you personally have been dealing with this for decades, and it would be nice to have some change.

I want to give Ms. Lee an opportunity to answer a question, as well. Nancy, one of the arguments some members of government have given against the multi-provider model is that small builders would not be able to access insurance. You touched on that briefly in your remarks. From what I can see, if you look at Alberta and BC, the multi-provider model seems to work. Builders seem to be able to access insurance. Do you want to

address the position that small builders would not be able to access insurance?

Dr. Nancy Lee: I believe I said that if the builder is doing a building to code and is building a proper construction, they will have no problem getting insurance, so being small or large makes no difference. It just keeps them more accountable if there is a multi-warranty model. Obviously—if you can understand the example—if I have to buy insurance for my car and I can only go to one company, of course, I'm not going to get very good service. So why would it make sense here? It doesn't make sense.

The government is saying, "We have to look out for the small builders." No. If they're not doing proper construction, then sure, they should not get insurance. Why would I want them to get insurance? That would not be consumer protection. I'm not going to feel sorry for them. You need to protect the consumer first. We have to err on that side. It's the public that needs to be protected here, and that's your responsibility as an MPP.

Mr. Mike Schreiner: I agree. Do you think Bill 159 moves the ball forward at all in terms of consumer protection?

Dr. Nancy Lee: Maybe about an eyelash. If only we could amend it so that we include some of the aspects in Bill 169, and then maybe if MPPs could work together—and we don't have to make it a partisan issue,

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

Dr. Nancy Lee: I think that we're all looking out for the best interests of the public as a whole, and we just need to work together. I think there are great ideas out there, so in Bill 159—if we can amend it to include Bill 169 statutes, that would be great.

Mr. Mike Schreiner: I'm sure there will be some opportunities for MPPs to work together on some amendments, and hopefully, people will listen to your suggestions and Mr. Hillier's suggestions on some ways in which the bill can be amended to protect consumers.

Thank you for being here today. I really appreciate it.

The Chair (Ms. Goldie Ghamari): We'll now turn to the government for eight minutes of questioning. MPP Bailey.

Mr. Robert Bailey: I want to thank all the presenters at this time.

I'd like to go to the two gentlemen from Park Lawn, Eric and David. I have a couple of questions. I certainly want to applaud you for your presentation today. I think that it's a part of the consumer protection agencies that are maybe overlooked a lot, but I think it's very important because you deal with some of the saddest parts of their lives, when they have lost a loved one or they're going through grief. Your business, your industry is sometimes—especially with this COVID-19, it might have been the only people they had to even deal with for the limited funeral, whatever form that took.

With the proposed amendments to the administrative authorities act—I have a couple of questions. What changes that are proposed in Bill 159 to improve accountability and transparency of administrative

authorities either are already going to make improvements to your industry—or if you could add a couple of changes you'd like to see, even to the existing legislation?

Mr. Eric Vandermeersch: Well, from what I understand and from what I can tell—and I don't have a lot of experience with this kind of thing, so please excuse my terminology and whatnot—what it would do for us, specifically, is it would bring the current organization from an arm's-length authority from the government into the ministry for consumer protection, which would surely add some due process to how the current organization deals with providers.

What we've seen is some negativity towards low-cost providers. The specific funeral home that we're discussing right now is one called Basic Funerals, which serves about 2,500 families a year. What people need to understand is, those families need an alternative option because they don't have the kind of money that it takes to buy a traditional funeral. So if there's any kind of biased behaviour, it's not going to be towards a company like that that doesn't have the margins that could perhaps make someone biased towards them. But those families need those alternatives. They need a dignified way to say goodbye to a loved one without spending \$10,000. So that's one thing, for sure.

The other is, there are very few customer complaints in our industry. I can tell you, for sure, funeral directors get a ton of education on it, and you're not going to make it in our industry without proper customer service. That's why there are not a lot of complaints to the organization. So I think you need an organization that can handle those complaints, but they shouldn't be going out looking for trouble, which is currently what's happening. So we'd like to see that stopped.

We think that that would be beneficial for things like creativity in the space. People wouldn't be scared to try new things. They wouldn't be scared to help the industry evolve and bring it away from just that traditional aspect that it's had for so many decades now. We're really under a thumb, and it's difficult. It's not just our company. I'm sure you will hear from others on this subject.

Does that answer your question, or did I miss anything?

Mr. Robert Bailey: No, that's fine. I do want to thank you for the work that your industry and all of the funeral industry has done, especially during COVID-19, because I know how difficult it was for families to say goodbye and for your industry to work with them under what would be trying situations, certainly. I think all of the committee here today that are listening to the deputations would agree to that, as well.

With that, I think that's all the government has, Madam Chair.

1650

The Chair (Ms. Goldie Ghamari): We'll turn to the official opposition for the next round of questioning. MPP Rakocevic.

Mr. Tom Rakocevic: I'd like to address this first question to Ms. Lee. Again, it's a comment. When this bill was at second reading and I made my presentation lead

and spoke to it, government members kept questioning and pointing to the same sort of thing: “Is this better? Is this better? Is this better? Is this better?” Again, how would you answer, “Is this better?” Do you think this is a missed opportunity for real change, Ms. Lee?

Dr. Nancy Lee: Is Bill 159 a missed opportunity?

Mr. Tom Rakocevic: Yes.

Dr. Nancy Lee: Yes, definitely. Does it introduce a multi-provider system? Does it end the monopoly? No, no. Is it immediate help for consumers? No. Is there even an independent administrator who will be added to the corporation? No.

Of course, this is a missed opportunity. Justice Cunningham’s recommendations—many of them are not included. Same with the Auditor General’s recommendations—they did not include any of these. Even small recommendations, they didn’t include—major and minor. Definitely, it’s a miss.

Mr. Tom Rakocevic: Again, a comment was made about fixing things in regulations, yet when we explicitly laid out real, bold change according to stakeholders and consumer protection, it was voted against in the clause-by-clause. Tomorrow, we’re also going to be hearing from the Ontario Home Builders’ Association, and I’m pretty sure they will be supportive of this legislation, unlike every single new home purchaser who has spoken in this committee. Any comments on that?

Dr. Nancy Lee: Obviously, if the system is working for you and you can get away with construction and doing things, they don’t want to upset the apple cart too much, so they want to continue with the status quo and have their insiders in control at Tarion. As you know, in Tarion’s leadership—most of them are run by members from the building association. There are no consumer advocates there. So they want to keep the status quo.

Mr. Tom Rakocevic: Mr. Hillier, do you believe the boards of HCRA and Tarion reflect consumer protection in their current form, and do you believe this legislation will change builder control, the industry control of home warranties in this province?

Mr. William Hillier: Definitely not. I don’t see how anything that they’ve done so far makes any difference to it, because it’s still a continuation of what has been going on. I’m going on to four years of having my home, and I’m still fighting, and I’m still getting the same answers: “Well, we have to do this, and we have to do that.” They procrastinate. You say, “Do you want to come in and fix it?” “Well, we’ve got to get an engineer to look at it, and we have to do this.” How many engineers do you need to look at it? So I don’t see how this is going to make any change. The organization needs to be completely separate from the builder. The builder should have no input into it.

Mr. Tom Rakocevic: I believe a government member went so far as to claim this was some sort of big change of the generation. For someone who has been for decades dealing with issues in home warranties and still facing it, how does it make you feel when there is the opportunity for bold change and the government says, “Yes, but we’re making it better”?

Mr. William Hillier: It makes you feel not very good, because it’s strictly lip service. If they say, “Oh, this government can do better,” well, why don’t they do better? They had the opportunity to do it. There are two different governments that have been in since this started in the last five, 10 years, and nothing has changed, because it keeps going back to Tarion: “Well, we will revamp it.” That’s just like having a Model T Ford. You’re not going to replace it. Just fix it. Yes, it will go, but will it do the job? No, not in today’s society, it won’t. The way they build the houses today and put them up so fast and quickly—the builders are not going to stand for anything less.

Mr. Tom Rakocevic: Mr. Hillier, do you want to see an administrator immediately take over Tarion? Do you feel, in your situation, that Tarion moved quickly enough to deal with issues that you’re addressing? Do you think, left up to them, they’ll do satisfactory work? Or do we need to bring someone in immediately to clean house?

Mr. William Hillier: I think you’ve got to clean house. You’ve got to come in and get rid of it. You’ve got to have new insight, new thoughts, away from what it is now and be completely separate. Somebody has to come in.

If you take somebody from the bottom and put them on the top in the same organization, they’ve been dealing with the same problems, the same issues, so things are not going to change. But if you bring somebody new in, you’ve got new insights, they’ve done different things, they’ve seen different things. We can only hope that, yes, that will make changes.

Mr. Tom Rakocevic: Tomorrow we will be hearing from the Ontario Home Builders’ Association, who will be representing home builders. If you happened to be sitting on this committee and had the opportunity to ask a question, what would you ask them?

Mr. William Hillier: You’ve put me on the spot. I can’t really say what I would ask them.

Mr. Tom Rakocevic: No problem.

Mr. William Hillier: I would say, what is it about the system that you like now that you don’t want to change, to begin with. Why do you not want to change? Why do you want to maintain what the status quo is, as opposed to saying you’re going to help the homeowners when they get a new home, when they buy a new home? As I said, if you start from the bottom, and you’ve got all your codes in place and you’ve got everything else in place that comes up, you’ll have fewer problems. That’s what I would say.

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

Mr. Tom Rakocevic: I want to thank you both for coming forward. Again, we heard about patch and run, but you’ve been very courageous to deal with the issues that you’ve faced. There’s always the potential of risk, and yet you’ve done this, you’ve been public about it, and you’re fighting for everybody. I just want to tell you how much I appreciate it.

To the gentlemen from Park Lawn: I don’t have any questions for you, but I really appreciate your presentation today and your work.

Thank you, everyone.

The Chair (Ms. Goldie Ghamari): Thank you to our presenters for joining us today. It was very informative, and I know the committee will have lots to think about. At this point, you may stand down.

MS. CATHERINE CHEN

The Chair (Ms. Goldie Ghamari): We're now going to turn to our last presenter for the day, Catherine Chen. You will have seven minutes for your presentation followed by rounds of questioning from government, official opposition and the independent Green Party members. Please state your name for the record. You will have seven minutes, and you may begin now.

Ms. Catherine Chen: Dear members of the standing committee: My name is Catherine Chen, and I am a 19-year-old social justice advocate. I am here to advocate for the correction of unjust policies surrounding homeowners. I'll be putting forth a sort of victim impact statement—but I don't like the word "victim" since the victim mentality involves self-pity and sadness. Instead, I want to have a more positive message. I feel empowered now and am free of the anger due to the injustices I had faced. I realize that with the knowledge I have gained from experiencing this myself, I can give someone else value and prevent others from experiencing the same.

I realize that my opinions should not be invalidated by my youth. I am not a CEO, VP nor PhD, nor have served as a board member on whichever committee, but I want to show you that the injustices facing homeowners with regard to new home building have percolated to society's youth. My opinions and experiences represent the masses and their futures.

Let me tell you how this issue has affected me. I had moved into a newly built home with my family, and we found a plethora of construction deficiencies in our new house. The builder refused to address them, saying it was my family who caused the defects. Somehow, I was to blame for no insulation in my attic and attic ventilation being not to code. I was blamed for why water was penetrating into the building envelope, causing toxic mould.

1700

My siblings and I felt super stressed and anxious. We definitely had our emotional health impacted, but don't feel sorry for me. It is long overdue to do something about it. Both you and I know that most of my story is not an isolated one. I have no time for this polite fiction.

You know that there are conflicts in new home building, so stop dancing around how to do the minimum for the public for fear of offending your political donors. Organizations cannot hold themselves accountable internally.

You have the ability to reform new home building, so do it by amending Bill 159 so there is accountability. How? My thoughts are to open up the Tarion monopoly as Justice Cunningham stated in the Tarion review. We cannot expect so-called industry experts from Tarion to

cross-pollinate into the new home building regulator and have both organizations be independent.

Tarion wants the public to believe that their goal is to protect new home buyers, but in reality, I have found that the Tarion warranty is not worth the paper it is written on. Many new home owners are disappointed with a builder who did not build their home to code and without construction defects. They looked to Tarion, only to find that Tarion is not a true consumer protection organization. It shocked me to realize that I have more protection buying an iPhone than a new \$2-million house. Apple will warranty their product, but not the builder. The funny thing is, the Tarion new home warranty is actually a mandatory tax paid by homeowner fees. We fund a warranty that doesn't work.

You in the Legislature have heard Tarion CEO Bogach say that the Tarion warranty is the best warranty in the world. I believe what he said is true. Yes, it is the best warranty for himself. He is getting paid \$800,000 from homeowner fees.

Special industry groups do not speak for the homeowner.

To conclude: As adults, you must have heard of Hans Christian Andersen's The Emperor's New Clothes story. The moral of the story is that we can't let our pride keep us from speaking up when we all know the truth about the elephant in the room.

New home construction is a complicated issue that is broken in so many ways, ranging from construction defects, code violations, a lack of proper inspection, a faulty warranty provider and a builder-regulator. Everyone knows about the problems. It's time for politicians to work together.

I ask the PC members to listen to their past position advocating for Tarion reform when they were in opposition. It is time to put aside pettiness and work together with Justice Cunningham's plans. And practically, there is an immediate solution with the adoption of Mr. Rakocevic's Bill 169. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much, Catherine, for your presentation. I couldn't help but notice, you said you're 19, correct? Is this the first time that you've ever presented at committee?

Ms. Catherine Chen: Yes, it is. I did present to Justice Cunningham before.

The Chair (Ms. Goldie Ghamari): Oh, fantastic.

Committees are non-partisan, obviously, and as Chair I have to remain neutral, but I just wanted to commend you on getting involved in politics. I think it's so important for young people to get involved, because you are the future of this province. I hope that we'll see you at many more committee hearings to come and that you encourage all your friends and colleagues to get involved. Thank you, again, for that.

Normally, questioning is 38 and a half minutes, but I don't think you want to be grilled for 38 and a half minutes, because usually that time is divided between three presenters. So both the government and official opposition

have agreed to only one round of questioning. This round will begin with the official opposition.

I would just like to remind all members to be respectful. Let's encourage Catherine and the youth of this province to continue participating in committees. Thank you.

MPP Glover, you may begin.

Mr. Chris Glover: Catherine, thank you very much for being here, and thank you for your deputation. I just want to echo Chair Ghamari's commendation for your being here. It's great that we've got a youthful voice to point out that this is not just older people—this affects entire families. I want you to be assured that instead of—you said, "My opinion should not be invalidated by my youth." I think it's the opposite. I think that your being here as a 19-year-old actually has a huge impact on all of us, and so thank you for being here.

You said, "I was blamed for a number of things, and one of them was, I was blamed for water leaking into the building envelope." Can you explain how it is that you felt you were blamed for the water leaking into the building envelope?

Ms. Catherine Chen: I felt that my family was to blame because—before we bought the house, we did have it inspected very thoroughly, we thought. So we bought the house thinking it would be fine and that we could just live our happy life in a new place. But then we got all these problems, and it seemed like it was all our fault that we didn't check it, but instead it should have been the builder's and the inspector's responsibility to make sure that it was safe to live in.

Mr. Chris Glover: Does it seem like there's an incentive for builders not to build properly because they're protected by Tarion, which doesn't make them compensate people for the mistakes that they make?

Ms. Catherine Chen: It seems so. We did receive a very small amount of compensation, but it was really negligible compared to the amount of money that it required to solve all of these problems.

Mr. Chris Glover: I don't want to ask private information, but if you feel comfortable, can you talk about the amount of compensation you got versus the actual cost for the repairs that your family incurred? It's up to you whether you want to answer that with actual numbers.

Ms. Catherine Chen: I'm not too sure about the exact amount, but it covered basically nothing, nothing at all.

Mr. Chris Glover: Okay. I think that says enough.

You said that the builder didn't build your home to code and there were construction defects. Can you describe a few of those?

Ms. Catherine Chen: Yes. Some of the pipes in the walls were starting to rust and would leak. They wouldn't use the correct pipes, to code; they used the cheapest ones they could find, but since it's hidden behind the walls you wouldn't be able to see it. So we had to tear down walls, and we saw the big mess.

Another example was the leaking roof. We have a deck, and underneath it should be waterproof, of course. It's like a roof. But instead they put a layer of plastic so that it would just pool the water until we bought it. They just hid the problem away until we bought it.

Mr. Chris Glover: So they actually hid the defects. It's like in the old days, when they used to say that some car dealers would put sawdust in the transmission so it didn't make noise while you drove it off the lot and you'd get a block away and then the car would break down. It seems like, in the case of your family's home, they were deliberately hiding defects. Is that fair?

Ms. Catherine Chen: Yes.

Mr. Chris Glover: Okay. I want to use up the time. You said that you're asking the PC members to listen to what they said when they were in opposition. And you said that to put aside—and I'm not sure whether you meant that they had said that it was time to put aside pettiness, or is it you who are telling them now to put aside the pettiness and to work with Justice Cunningham's recommendations?

Ms. Catherine Chen: Can you repeat your question?

Mr. Chris Glover: You said at the end, "I asked the PC members to listen to what they said when they were in opposition. It is time to put aside pettiness and work with Justice Cunningham's recommendations." Are you quoting the PC members when they were in opposition with that statement or is that just what you were asking the PC members to say now? It was right near the end of your deputation.

Ms. Catherine Chen: I am asking them to do that now.

1710

Mr. Chris Glover: You've got several PC members here today. What exactly are you asking for them to do?

Ms. Catherine Chen: As I said, an immediate solution would be the adoption of Bill 169, which would add an administrator to the corporation and which would introduce a multi-provider system and end the monopoly with Tarion. That would be a huge immediate help for consumers.

Mr. Chris Glover: Thank you. You've done a wonderful job with your presentation.

Madam Chair, how much time do I have left?

The Chair (Ms. Goldie Ghamari): You have two minutes.

Mr. Chris Glover: I'm going to pass it to one of my colleagues.

Catherine, thank you so much for being here and continuing your advocacy work. It'd be great—maybe one day you'll be sitting in one of our seats.

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

Mr. Tom Rakocevic: Thank you so much, Ms. Chen. What an excellent presentation, and I commend you for being here and taking part in democracy like this. You have joined a chorus of voices who are calling for real consumer protection and bold change, and what you're asking for is something that goes far beyond what the government is proposing.

We see two sides of the story: the side that you've put forward, just like all the other homeowners who have been dealing with problems with home warranties, and we're going to hear the builders' side tomorrow. I suspect, if I were a betting person, that they will take the builders' side.

How does that make you feel, as a young person, about democracy, about how the system works, if the government takes such a one-sided approach and doesn't do what the people are asking for?

Ms. Catherine Chen: You mean just listening to the builders instead of society, or—

Mr. Tom Rakocevic: Yes. For instance—

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

Mr. Tom Rakocevic: —what you've said has been very similar to things that have been said by other people in your situation. The builders are going to say, "No, don't make those changes." How does it make you feel if this government won't take your changes to heart?

Ms. Catherine Chen: I'll feel pretty upset, because they should be listening to us, the people, instead of builders. I'm sure there are some builders—there are so many builders who are doing the right thing, but there are also builders who are very selfish and are doing what they did to my house, and are purposefully making bad houses just for their own personal benefit. It's really impactful, because I'll be purchasing a house, hopefully, in the future, and if I have to face this situation again—I don't want to see this in the future.

Mr. Tom Rakocevic: I'm sure your future is bright. Thank you so much.

The Chair (Ms. Goldie Ghamari): That concludes this round of questioning.

We'll now turn to the government for eight minutes. MPP Bailey, you have the floor.

Mr. Robert Bailey: Thank you, Catherine, for your very erudite presentation this afternoon. I enjoyed it very much. I'm sorry that you had those problems and issues; your first time home-buying shouldn't have been that experience. Especially at 18 or 19 years old, it's something that shouldn't happen.

I'd like to commend you on that presentation. I'm sure that all the members—government, opposition etc.—certainly got something out of all the presentations today, but especially yours.

A lot of the recommendations that we are going to implement if Bill 159 is implemented will strengthen consumer protection going forward, and I would hope that as we go forward we will prevent young people, and people in general, from having the same situation as you went through.

With that, I'd like to thank you for your presentation.

That will be it for the government, Madam Chair.

The Chair (Ms. Goldie Ghamari): Further questions or comments?

Catherine, would you like to comment on that?

Ms. Catherine Chen: I'm okay, thank you.

The Chair (Ms. Goldie Ghamari): Okay. Any other questions or comments? No? Well, thank you very much, then. That concludes this round of questions from the government.

Interjection.

The Chair (Ms. Goldie Ghamari): Of course, MPP Schreiner, I'm not going to forget about you; I was saving

the best for last. MPP Schreiner, at this point you have six and a half minutes. You may begin.

Mr. Mike Schreiner: Thank you, Chair. I thought you'd forgot about me there for a second.

The Chair (Ms. Goldie Ghamari): I would never forget about you, MPP Schreiner. The leader of the Green Party? That's sacrilege.

Mr. Mike Schreiner: I will re-state for the record that you saved the best for last. And Catherine, that would include you. You're our last presenter today. Thank you so much. I'd like to echo what my other colleagues have said: It's great to see somebody so young come to committee, give a presentation and be as eloquent as you've been today.

One of the things I wanted to ask you about is that you're not the only person who has come to this—actually, I'm going to back up and ask this other question first. For you to be so moved to come to committee and speak out so much on this, your own personal and your family's experience with the Tarion home warranty must have been not very good. You talked about the frustration with the house itself, but could you talk a little bit about the challenges and frustration you felt with Tarion itself in terms of trying to get some sort of compensation for the defects in the house?

Ms. Catherine Chen: So you want to know the struggles—

Mr. Mike Schreiner: —with Tarion, yes. You talked about the challenges you experienced with the house itself, but then your family, obviously, was trying to get compensation for that through Tarion. You must have felt a lot of frustration with that process, as well, to bring you to committee today.

Ms. Catherine Chen: Yes. With Tarion, we were talking to them a lot and we were trying to figure everything out, and they weren't very receptive and they weren't very helpful at all. After a lot of discussing, they did give us the compensation, but it was really disappointing to see how much it was, given the sum of all the problems that we had. That was the maximum they would give out; that was it. We were just shocked that something that was supposed to protect us really did nothing.

Mr. Mike Schreiner: Yes, that must have been very disappointing.

One of the things that I think you're highlighting and that others have said is that there seems to be a power imbalance between citizens, homebuyers and consumers versus the building industry and Tarion. Do you feel that Bill 159 balances out that power imbalance at all, or do you still feel like there's a pretty significant power imbalance with this bill?

Ms. Catherine Chen: I think it's a stepping stone. It's a good start.

Mr. Mike Schreiner: A good start. But do you think it satisfies everything that you have talked about, especially ending the monopoly and moving towards the more competitive, multi-provider system that was recommended by Judge Cunningham?

Ms. Catherine Chen: For Bill 159, it doesn't touch on all points, which is why I mentioned that it should be changed a bit to add in an administrator to the corporation, which would be really helpful.

Mr. Mike Schreiner: Great. That's good. It's nice to have you come forward with some specific amendments. I'm hoping that we'll have an opportunity to put forward those amendments. One of the things that happens at committee is that hopefully we pass some of them to improve the bill and to address the concerns that you've brought today.

Are there any others that you would like to suggest in the few minutes we have remaining?

Ms. Catherine Chen: Nothing off the top of my head for now.

Mr. Mike Schreiner: That's fine. No worries.

The Chair (Ms. Goldie Ghamari): If you think of anything, you're welcome to provide written submissions, Catherine, in the future. I'll be making an announcement on that.

Mr. Mike Schreiner: Thanks, Catherine. I appreciate you taking the time to come today.

Ms. Catherine Chen: Thank you.

The Chair (Ms. Goldie Ghamari): Thank you, Catherine, for joining us today. We all very much appreciated speaking with you. I've asked the Clerk to put my email address in the group chat for you. Once the COVID-19 pandemic is over and the Legislature is opened back up to the public, you are welcome to come join us. Just send me an email and we'll make sure to get you a little tour of Queen's Park. You can meet some of the MPPs here whom you have spoken with today.

With that, you're released from the committee. Thank you, and I wish you all the best.

This concludes our business for today. I'd just like to thank all committee members for participating and making sure that it's a smooth process. I appreciate the respectful discourse and keeping on time.

As a reminder, the deadline to send in written submissions will be 6 p.m. on June 24, 2020.

Our committee is now adjourned until 9 a.m. tomorrow. We will have a pre-hearing meeting at 8:45 a.m. and will resume at 9 a.m. to continue hearings on Bill 159. Thank you, everyone.

The committee adjourned at 1721.

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