



2023 Annual Report



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Message from the Ombudsperson



On October 23, 2023, I had the honour of assuming the role of Ombudsperson at the New Home Ombuds office. I've spent the last 16 years of my career working in the ombuds field. First with Ombudsman Ontario, which resolves and investigates more than 20,000 public complaints every year about Ontario government organizations. Then with the Fair Practices Commission, the organizational ombudsman for the Workplace Safety Insurance Board. I'm looking forward to using my years of experience to help protect and promote fairness for homeowners at Tarion.

First, I would like to thank the team here for their diligent work in helping Ontario's homeowners and particularly for their ongoing commitment through a period of transition in the leadership of this office.

As you will learn from reading the case stories in this report, the New Home Ombuds office addresses fairness issues homeowners may be experiencing with Tarion, which administers Ontario's new home warranty program.

In 2023 we helped homeowners such as Makayla¹, who was stressed because water leaked into her basement every spring and she was experiencing delay receiving compensation from Tarion. You can read about Makayla's story, along with those of other homeowners we have helped, starting at page 11 of this report. You will also find positive feedback the Ombuds office has received from homeowners interspersed throughout the report.

We don't just resolve individual homeowner complaints. We also make recommendations for systemic improvements at Tarion. For example, in 2023, we conducted a systemic review into Tarion's process for issuing Decision Letters and made several recommendations that will result in

improvements to the company's process and service to homeowners. You can read about that review and its outcome on page 10 of this report.

In my ombuds career, I've learned the importance of listening. To the homeowners who may be considering contacting us, I assure you that the staff at the New Home Ombuds office will take the time to listen to you and make sure you know your concerns have been heard. We will do everything we can within our mandate to help resolve the fairness issues you may be experiencing. As the Ombudsperson, I am responsible for the service homeowners receive from the New Home Ombuds office and the outcome of our reviews. Should you have any concerns about the service received from the New Home Ombuds office, I'd like to hear about it so I can help resolve the issue.

I've also learned the importance of working with an organization that values the role of the ombuds. So, I would like to take this time to thank Tarion and its staff for their help and co-operation in resolving the numerous issues we have raised with them. I am also happy to report that all the recommendations the New Home Ombuds made to Tarion in 2023 have been accepted.

In the coming months and years, I look forward to utilizing my years of experience in complaints investigation and resolution to continue the work of this office in resolving the concerns of homeowners and improving service at Tarion.

Tom Barber (he/him/his)
Ombudsperson
tbarber@newhomeombuds.ca

¹Homeowner names have been changed to protect confidentiality.

Our Mandate



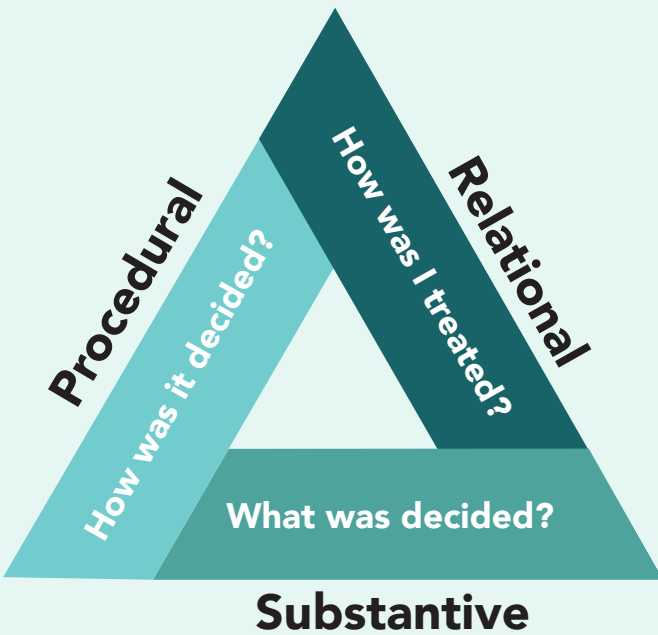
The mandate of the New Home Ombuds is to:

- Investigate and resolve complaints from homeowners about Tarion’s conduct;
- Act as a source of information, to help homeowners in getting assistance from Tarion; and
- Identify issues and make recommendations for improvements.

Our office works to ensure that Tarion treats homeowners fairly. We do this by both promoting and protecting fairness.

What is Fairness?

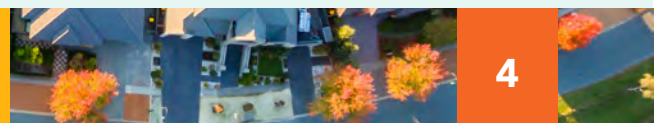
To determine fairness, our office views Tarion’s actions through the lens of Procedural, Relational and Substantive Fairness, as illustrated in the “Fairness Triangle”.



When reviewing Tarion’s actions, we ask questions such as:

1. How was the matter decided? **Procedural Fairness**
 - a. Did the homeowner have enough information to understand the process and to advocate for themselves?
 - b. Did Tarion provide reasons for the decision it reached?
 - c. Was the decision reached in a reasonable amount of time?
2. How was the homeowner treated? **Relational Fairness**
 - a. Did Tarion listen to the homeowner’s concerns and address them?
 - b. Did Tarion treat the homeowner with respect and courtesy?
 - c. Did Tarion follow through on actions it promised?
3. What was decided? **Substantive Fairness**
 - a. Did Tarion have the authority to make the decision?
 - b. Was the decision based on complete and relevant information?
 - c. Was the decision wrong in fact or policy?

If Tarion has missed even one of these three aspects, the homeowner has not been treated fairly and a remedy may be needed.



Why Does Fairness Matter?



By applying the principles of fairness to how it treats homeowners and how it makes decisions, Tarion strengthens consumer confidence in its service and process. The New Home Ombuds office protects and promotes fairness at Tarion, thereby helping Tarion better serve homeowners and enhancing public confidence in Ontario's new home warranty system.

Protecting Fairness

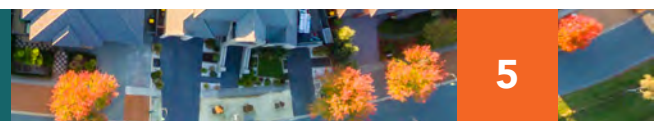
Protecting fairness is about looking at what has happened. Our office does this by reviewing Tarion's past actions, determining whether they were fair and recommending remedy for any unfairness we find. We do this by:

- Reviewing complaints from homeowners: If we find fairness issues, we recommend remedy for the individual case. For information on this process, please see page 6 "The Complaints Process".
- Reviewing systemic issues that we discover in the course of our work: When we become aware of a potential systemic fairness issue, we will review it to determine whether Tarion's processes need to change. If we find that there are fairness issues, we will recommend remedies that will address the systemic issue and result in a fair outcome for all homeowners.

Promoting Fairness

Promoting fairness is future focused. The Ombuds office meets regularly with Tarion's Warranty Services management team to discuss emerging issues and trends. We value cooperative resolution and working collaboratively. We believe it is more effective to prevent fairness concerns through early intervention, when appropriate, rather than to find them after they have already occurred. We promote fairness at Tarion in two key ways:

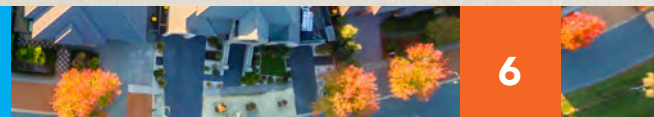
- When Tarion is developing a new policy or procedure they may request that we review it in draft form to identify and address any potential fairness issues. In this way, we help prevent unfair practices.
- We are also available to Tarion staff for consultation on fairness issues. If a staff member is unsure of the fair way to proceed on a file, they can contact the office to discuss the situation in confidence and we can provide resources on the principles of fairness.



What Happens to Your Complaint?



*Premature complaints are those where Tarion has not been given an opportunity to address the issue.



Core Operating Principles



Independence:

The Ombuds office operates independently of Tarion’s management and employees. We have our own office and maintain our own website. The Ombudsperson reports directly to Tarion’s Board of Directors and has an administrative reporting relationship with the Board’s Stakeholder Committee, where, periodically, we present our reports to that Committee. In the event we identify systemic shortcomings, we make recommendations for improvements and monitor their implementation. We play a key role in the organization’s overall commitment to consumer protection with due accountability, transparency and fairness.

Impartiality:

We do not take sides in a complaint. We objectively assess the information we receive in order to identify and address fairness concerns.

Confidentiality:

The information we receive is protected. We maintain records separate from Tarion and we do not disclose information to Tarion unless given consent to do so.

Timeliness of Service:

Complaints to the Ombuds are acknowledged within one business day. Our goal is to complete fairness reviews within 15 days.



2023 at a Glance



Most Commonly Raised Issues:

Tarion Complaints

- Warranty Assessments 50
- Delay 28
- Specific Defects 19
- Communication 15

Non-Mandate

- Complaints about builder conduct 23
- Inquiry/complaint from vendor or builder 7
- Complaints about Tarion staff 5



In 2023, we received five complaints from homeowners who disagreed with the findings made by the Ombuds office. In each case we discussed the complaint with the homeowner and took steps to address the concerns raised where appropriate.

We welcome feedback from the homeowners we serve. You can submit a complaint by emailing the Ombudsperson at tbarber@newhomeombuds.ca or calling 647-496-6907 and asking for Tom Barber.



Total Contacts:
299

Contact type:

- Complaints 255**
- Information Requests 44**



Financials:

The New Home Ombuds office budget was \$558,000 for the fiscal year ending December 31, 2023. The office's budget is primarily used for salaries, benefits and rental of office space.

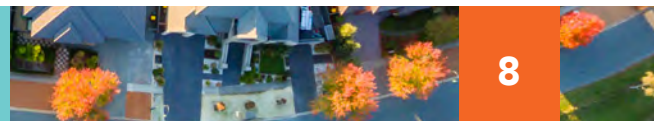


Case Management:

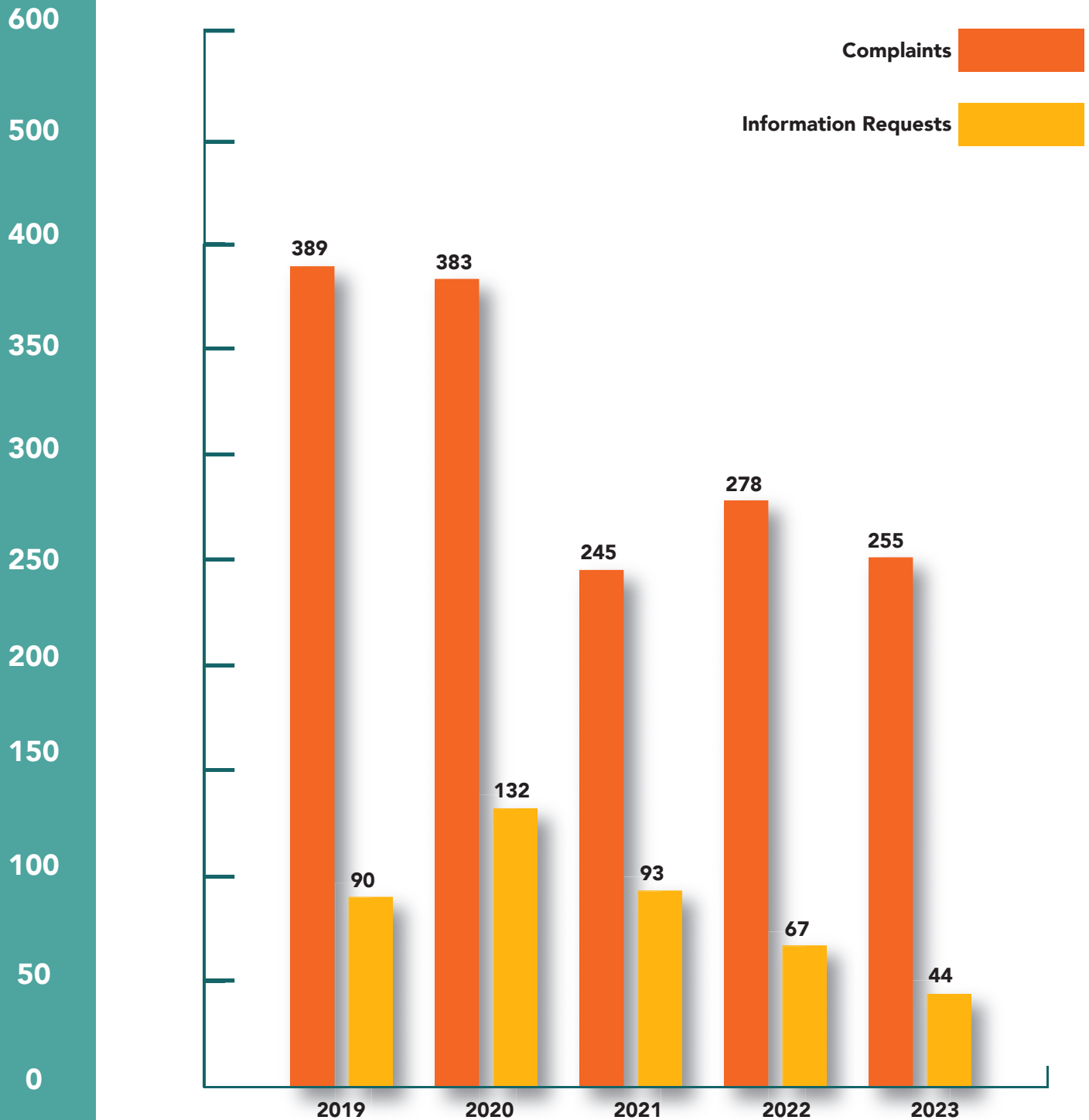
- **122 File Reviews** – a review of the file to determine next steps for resolution.
- **17 Fairness Reviews** – an in-depth analysis of whether unfairness occurred.
- **2 Inquiries** – a more complex fairness review, requiring more time.
- **1 Own Motion** – a review or an inquiry into a systemic issue that is initiated by the office.

Complaint Outcomes:

- Complaint premature 109
- Information or Referral provided 61
- Abandoned or withdrawn by complainant 41
- No unfairness found 15
- Facilitated resolution 11
 - Recommendations made 9
 - Complaint founded, no recommendation 4
 - Ombuds declined complaint 3
 - In mediation or under appeal 2



Five Years in Review



Systemic Review



The review of an individual complaint might raise concerns about a potential systemic issue that requires further investigation. In this situation, the office may initiate an Own Motion¹ review or inquiry to look more closely at the concerns and determine whether recommendations are needed. In 2023, we completed an Own Motion review stemming from several individual complaints about Decision Letters. This review, described below, led to systemic recommendations.

Own Motion Review into Tarion's Process for Issuing Decision Letters

When Tarion makes a warranty decision, they are required to inform the homeowner about the decision in writing. If a homeowner appeals Tarion's warranty decision to the License Appeal Tribunal (the Tribunal), they must request and attach the written notice, referred to as a Decision Letter, when submitting the appeal.

Throughout 2022 and the early part of 2023, the Ombuds office received several complaints about how Tarion issued Decision Letters. The majority were about the amount of time it took for Tarion to issue the letter while others were about Tarion's communication regarding the letter.

In the spring of 2023, the Ombuds office initiated an Own Motion review regarding Tarion's process in issuing Decision Letters for freehold and condo units.

We found that it was reasonable for Tarion to take the appropriate time needed to draft the Decision Letter to ensure that the information provided in the letter is accurate and complete. However, our review identified several systemic fairness issues:

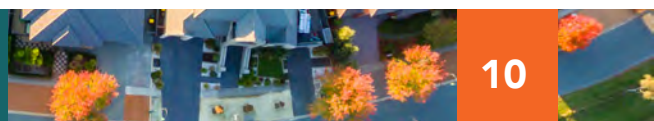
- Lack of defined timelines
- Inadequate communication of timelines to homeowners
- Potential for the Decision Letter writing process to stall
- No procedure for providing digital copies of Decision Letters

In July 2023, the Ombuds office made several recommendations to address the concerns we identified in our review, including that Tarion:

- Clearly communicate timelines to homeowners and inform homeowners if those timelines change
- Proactively provide homeowners with a digital copy of their Decision Letter, in addition to a hard copy letter

Tarion accepted and implemented all the recommendations that the Ombuds office made for this own motion review.

¹An Own Motion review or inquiry is initiated by the Ombuds office. Own Motion cases are generally about a systemic issue either identified by the Ombuds team or raised by multiple homeowners.



Case Stories



Our primary function is to investigate and resolve complaints from homeowners about Tarion’s conduct. When issues are identified, we hold Tarion accountable for any errors that have affected the homeowners.

Here are some of these homeowners’ stories, names have been changed to protect confidentiality.

Spring Thaw Stress

Makayla called the Ombuds office because she had been waiting over a year to resolve water penetration into her basement. She was especially distraught because winter snow was about to melt, and Tarion had just informed her that more inspections were required for Tarion to make her a cash settlement offer to complete the repairs.

Tarion has procurement requirements in place to ensure that fair cash settlements are made to homeowners. Due to the value of repairs that were required for Makayla’s water penetration, Tarion was required to obtain three estimates from external sources. In our review, the Ombuds office found that Tarion had not followed those requirements. Instead, Tarion had calculated a cash settlement offer based on a quote that Makayla obtained plus one internal estimate.

At the time of our review, Tarion had already noticed the error and were taking steps to correct it. They agreed to use Makayla’s estimate as one of the required estimates. We recommended that Tarion apologize for not

“...very patient and helpful.”

following appropriate process in offering the cash settlement and that they reimburse Makayla for the out-of-pocket expenses she had incurred to obtain her estimate.

Furthermore, the Ombuds office made a systemic recommendation that Tarion re-train staff to ensure that all warranty services representatives and managers understand and adhere to policies involving procurement and cash settlement.

“Thank you for your understanding of the issues and reaching out to Tarion for resolution.”

Decision Letter Delay

Dissatisfied with the resolution of her warranty concerns, Jacqueline asked Tarion to provide her with a Decision Letter.

Initially, Tarion assured Jacqueline that the Decision Letter was in progress and would reach her within a week. A month passed, and she was still without the Decision Letter. So, Jacqueline reached out to Tarion for an update but encountered difficulty in obtaining a straightforward response. Frustrated and looking for resolution, Jacqueline turned to the Ombuds office.



Upon investigating Jacqueline’s concerns, the Ombuds office discovered that Tarion had nearly completed the Decision Letter but failed to keep Jacqueline informed of the evolving timeline. It was also evident that the initial timeline provided to Jacqueline was unrealistic.

The Ombuds office recommended that Tarion provide an apology to Jacqueline for unclear communication. Shortly afterwards, Jacqueline received her Decision Letter and thanked the Ombuds office for its intervention.

“I felt my voice was finally heard...”

Tarion, Where’s my CAR?

Suresh received a cash offer from his builder to settle outstanding items, which could have avoided the need for a conciliation inspection. Despite the offer, Suresh opted to proceed with the inspection.

Just after Tarion completed its inspection, Suresh had a change of heart and decided to accept the builder’s offer. He promptly informed Tarion of his decision. Tarion, considering the case resolved, did not issue a Conciliation Assessment Report (CAR).

After a few weeks, Suresh, anticipating an update, contacted Tarion regarding the CAR. To his surprise, Tarion explained that because he accepted the builder’s cash settlement offer, they were not obligated to issue a CAR. Perplexed by this response, Suresh reached out to the Ombuds office.

After conducting a review, the Ombuds office found it reasonable for Suresh to expect a CAR, especially since Tarion had completed the inspection. The review also revealed that better communication from Tarion could have clarified their intention not to issue the CAR.



The Ombuds office recommended that Tarion issue the CAR and extend an apology to Suresh for the confusion. Tarion promptly produced the CAR, and the homeowner expressed satisfaction with the resolution.

From Frustration to Resolution

Luca called the New Home Ombuds office because he disagreed with Tarion’s decision that the drain issue causing flooding in his home was not warranted. After Luca received his Conciliation Assessment Report, he contacted the Warranty Services Representative assigned to his case to express his concerns with Tarion’s decision.

After many attempts at trying to resolve this dispute directly with Tarion, Luca became frustrated and confused and requested a Decision Letter to appeal Tarion’s decision at the License Appeal Tribunal. However, Tarion said it would be premature for them to issue a Decision Letter as it was still attempting to resolve his claim. So, Luca contacted the Ombuds office for help.

Our office reviewed Luca’s file and noticed that Tarion was attempting to resolve the dispute in a variety of ways, including through a monetary settlement and offering to have an external expert inspect the drain.

While it can be helpful for Tarion to offer a variety of options to resolve a warranty dispute, once Luca requested a Decision Letter, mediation should have been offered as an alternative. Further, the Decision Letter should have been provided once Luca requested it.

As a result of our review, Luca was able to proceed with mediation to resolve his issue.

Back on Track

Quinn contacted the Ombuds office because a Warranty Services Manager had not responded to their concerns about the Year-End Conciliation Assessment Report. When the Ombuds office spoke with Quinn, they also brought up additional concerns about their 30-Day claims.

Our office discovered that Quinn’s emails were not returned in accordance with Tarion’s Customer Service policy. We also learned that Quinn did not dispute Tarion’s decisions regarding their 30-Day claims, so Tarion had closed their 30-Day case.

Although some time had passed since the closing of the 30-Day case, our office reached out to the Consumer Relations and Dispute Resolution team and confirmed that Quinn was still able to dispute Tarion’s decisions on their 30-Day claims and request mediation.

“I truly appreciate that our concerns have been acknowledged.”

With our intervention Quinn’s Year-End claims were back on track. The Warranty Services Manager also apologized to Quinn for the delay in responding to their emails.



Forms of Confusion

Brianna was a homeowner who kept close track of her warranty timelines so that she wouldn't miss the opportunity to claim items during the most comprehensive first and second year coverage.

She was shocked when she received notification that her Second-Year Form was not accepted by Tarion because it was submitted too late. After all, she had followed the same steps when she submitted her 30-Day and Year-End Forms and didn't have any trouble with Tarion accepting those Forms. Tarion informed her that the method for submitting a Second-Year Form is different, so Brianna complained to the Ombuds office. In her view, the different method was not clear, and Tarion should accept her Second-Year Form.

When the Ombuds office investigated the concern, we learned that Brianna had sent an email to Tarion to discuss the Form rejection two weeks prior, and the manager had still not responded. We asked that the manager address Brianna's email message.

"This is an outstanding service and you have been great and very helpful."

The next day, Brianna thanked the Ombuds office and reported that the manager responded to her email and informed her that the Second-Year Form had been accepted.

Did you Watch the Video?

Saanvi was confused about the assessment report she received from Tarion. Despite providing her contractor's video showing concerns about her drain, she did not see any reference to the video in Tarion's assessment report. It looked as though Tarion forgot to review it, despite Saanvi's reminders when Tarion was at her home for the inspection.

She first complained to the Warranty Services Representative and Manager assigned to her case, but she was still unsure about whether her contractor's video had been considered.

She complained to the Ombuds office, specifically, that she believed Tarion had ignored her input when making the warranty determination about her drain.

When the Ombuds office reviewed the concern, we learned that Tarion had failed to consider the video prior to issuing the Conciliation Assessment Report. After Saanvi complained to the warranty staff, Tarion considered the video, and it did not change Tarion's warranty determination.

However, the Ombuds office identified a fairness concern about communication because Tarion did not inform Saanvi that the video had been considered. Nor did Tarion explain why the video did not change the warranty finding.

The Ombuds office recommended that Tarion apologize for the lack of communication and that Tarion issue a new Conciliation Assessment Report that explained why the video did not impact the warranty status of the drain.

Recommendations



One of the important functions of the New Home Ombuds office is to uncover and alert Tarion to both individual instances of unfairness and to larger, systemic issues, and to make recommendations for remedy.

We make recommendations that are practical, achievable, and fair. Although Tarion has no legal obligation to accept our recommendations, our recommendations are usually acted on because we illustrate to Tarion why acting on the recommendations is “the right thing to do” based on the facts of the case.

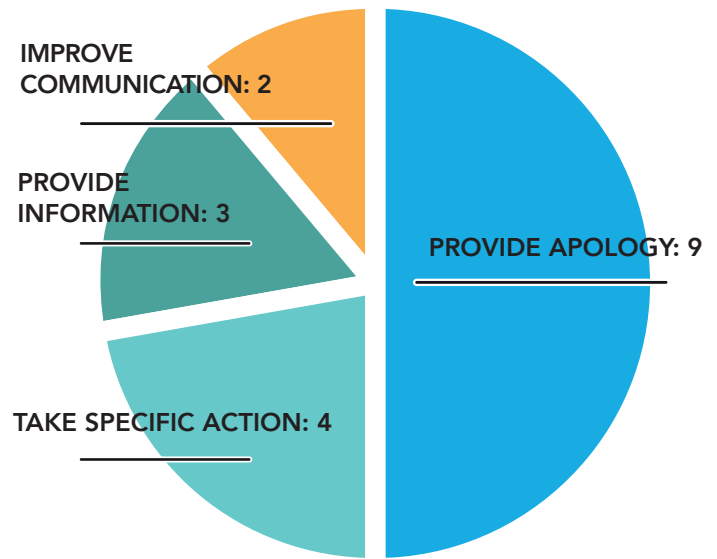
All recommendations made in 2023 were accepted and implemented by Tarion.

Case Specific Recommendations

When the New Home Ombuds office reviews an individual complaint and determines that there has been unfairness in Tarion’s handling of the file, we will make recommendations to remedy the issues identified. The recommendation may be for an action on Tarion’s part, such as obtaining an additional quote as part of its cash settlement process or providing an apology for an error made.

In 2023, the office made 18 recommendations after completing 17 fairness reviews and 2 inquiries.

2023 Case Specific Recommendations

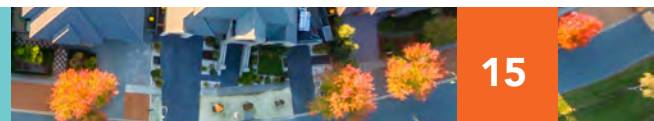


Systemic Recommendations

In some cases, the review of a complaint may reveal not simply an individual error on Tarion’s part, but a systemic issue that needs to be addressed on a broader level. In these cases, we will make systemic recommendations in addition to the recommendations for individual remedy.

In 2023, we made one systemic recommendation to Tarion following our review of a homeowner’s complaint. We recommended that Tarion provide refresher training to all its warranty services representatives, and their managers, on its cash settlement and procurement procedures.

“Your office was the light in the darkness.”



Here to Help



“Very great info, thanks again...for all your help and clarification.”

From left to right: Tom Barber, Rachel Schmidt, Fatima Ainshe and Noah Waksman

“The fairness and support I received made me feel that I did have the rights as a homeowner to pursue a repair I am entitled to.”

If you have a fairness concern about Tarion or about how your file is progressing, contact us. We are always happy to discuss your situation and help you figure out best next steps. The team at the New Home Ombuds office is here to help.

“Thank you so much. This information is very helpful.”

Contact Us:
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