

Chapter 3

Section 3.05

Tarion Warranty Corporation

Standing Committee on Public Accounts Follow-Up on October 2019 Special Report

On November 27, 2019, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2019 audit of Tarion Warranty Corporation (Tarion). The Committee tabled a report on this hearing in the Legislature in February 2021. A link to the full report can be found at www.auditor.on.ca/en/content/standingcommittee/standingcommittee_archives.html#2021.

The Committee made 18 recommendations and asked the Ministry of Public and Business Service Delivery (Ministry), formerly the Ministry of Government and Consumer Services, to report back by June 2021. The Ministry formally responded to the Committee on June 22, 2021. In 2021, we conducted a follow-up on the Committee's recommendations. This follow-up report can be found in Chapter 3, **Section 3.06** of our *2021 Annual Report*. As of November 16, 2021, 67% of

the Committee's recommended actions had been fully implemented, 18% of the recommended actions were in the process of being implemented and there had been little or no progress on 11% of the recommended actions. In addition, 4% of the recommendations were no longer applicable. In 2023, we conducted a second follow-up on the Committee's recommended actions that were not fully implemented as of November 16, 2021. The status of each of the Committee's recommended actions that were outstanding as of November 16, 2021, is shown in **Figure 1**.

We obtained written representation from Tarion, the Home Construction and Regulatory Authority (HCRA), and the Ministry that effective November 20, 2023, they have provided us with a complete update of the status of the recommended actions that were not documented as fully implemented in our 2021 follow-up report.

Figure 1: Summary Status of Actions Recommended in February 2021 Committee Report

Prepared by the Office of the Auditor General of Ontario

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 2	3		2	1		
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 11	1	1				
Recommendation 12	3	2	1			
Recommendation 14	3	3				
Recommendation 17	1	1				
Total	13	9	3	1	0	0
%	100	69	23	8	0	0

Note: This table includes only those recommended actions that were not documented as fully implemented in our 2021 follow-up report.

Overall Conclusion

As of October 27, 2023, 69% of the Committee's recommended actions that were outstanding since our last follow-up in 2021 had been fully implemented and 23% of the recommended actions were in the process of being implemented. There has been little or no progress on one recommended action.

Detailed Status of Recommendations

Figure 2 shows the recommendations and status details that are based on responses from Tarion, HCRA and the Ministry, as well as our review of the information provided.

Figure 2: Committee Recommendations and Detailed Status of Actions Taken

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
<p>Recommendation 2</p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> remove its two 30-day deadlines and allow homeowners to submit requests for assistance at any time during the first year of ownership; <p>Status: In the process of being implemented by May 2024.</p> <ul style="list-style-type: none"> eliminate the 30-day deadline to request a home inspection; <p>Status: In the process of being implemented by May 2024.</p> <ul style="list-style-type: none"> significantly reduce the amount of time provided to builders to resolve defects before stepping in to help homeowners, and establish prescribed, transparent, and appropriate timeframes for fixing defects. <p>Status: Little or no progress.</p>	<p>In our follow-up, we found that Tarion completed public consultations in September 2022 on proposed regulatory changes under the <i>Ontario New Home Warranties Plan Act</i> to:</p> <ul style="list-style-type: none"> allow homeowners to add items to a running list of potential defects at any time during the first-year warranty period; extend the two 30-day deadlines to add an additional 10 days to each deadline (now two 40-day deadlines); create a new mid-year submission deadline to allow homeowners to submit requests for assistance six months into the first year of occupancy; and remove the 30-day deadline to request a home inspection, and instead allow homeowners to request an inspection for each submission from the time it is submitted up until the next submission date. <p>These changes will allow homeowners to submit items at any time during the first year of occupancy, and no items submitted during the first year would be rejected for missing a deadline. These changes will also give homeowners more time to request a home inspection. These regulatory changes were made in June 2023 but, at the time of our follow-up, had not yet been implemented. Tarion informed us that it expects these regulatory changes to come into effect by May 2024.</p> <p>In our follow-up, we found that Tarion deferred consultation on possible changes to the builder repair period until 2024. Consultations were deferred because Tarion received feedback from the industry that COVID-19-related disruptions were impacting repair periods. Tarion could not provide us with an estimated date of implementation.</p>

Committee Recommendation	Status Details
<p>Recommendation 4</p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation address the issue of warranty coverage that starts before a house is truly finished by:</p> <ul style="list-style-type: none"> developing a warranty that will protect homebuyers for unfinished items in their homes once the home has met the minimum occupancy standard, and ensuring that the one-year warranty coverage begins only after the items are finished. <p>Status: Fully implemented.</p>	<p>In our follow-up, we found that beginning on March 1, 2023, Tarion required builders to provide a new one-year extension of the warranty for items reported as missing or not installed as of the date a homebuyer takes possession of their home. The warranty for missing items starts on the date the builder installs the missing item. This extension of the warranty applies to items identified on warranty forms submitted by homebuyers after March 1, 2023. The builder is expected to provide the extension of the one-year warranty; however, it is not required by law. Tarion informed us that regulatory changes under the <i>Ontario New Home Warranties Plan Act</i> are expected by the end of 2024. In the interim, Tarion has developed a process to mediate complaints against builders that do not provide homebuyers with this new coverage.</p>
<p>Recommendation 5</p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation increase the maximum limit of \$300,000 paid to homeowners when builders do not honour their warranty, to better reflect the costs of home construction in Ontario.</p> <p>Status: Fully implemented.</p>	<p>In our follow-up, we found that as of July 1, 2023, Tarion increased the maximum limit—from \$300,000 to \$400,000—paid to homeowners when builders do not honour their warranty for new freehold homes. Tarion informed us that the warranty compensation limit for condominium units was not increased because there is additional coverage under the builder's common elements warranty.</p>
<p>Recommendation 11</p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation add the following information about each licensed builder, in clear and easy-to-understand language, to the Ontario Builder Directory:</p> <ul style="list-style-type: none"> cancellation of projects and reasons for the cancellation. <p>Status: Fully implemented.</p>	<p>In our follow-up, we found that in January 2023, HCRA started to publish information on the cancellation of construction projects, including the reasons for cancellation, in the Ontario Builder Directory.</p>

Committee Recommendation	Status Details
<p>Recommendation 12</p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Government and Consumer Services:</p> <ul style="list-style-type: none"> provide Tarion Warranty Corporation with the ability to directly fine any individuals and/or corporations found to have engaged in illegal home construction; Status: Fully implemented. establish an appeal process for individuals and/or corporations wishing to dispute the fines imposed by Tarion Warranty Corporation; Status: Fully implemented. establish a process by which Tarion Warranty Corporation can share information about illegal builders to governments (municipal, provincial, and federal) for investigation of potential tax evasion. Status: In the process of being implemented by the end of December 2023. 	<p>In our follow-up, we found that in February 2023, a new regulation under the <i>New Home Construction Licensing Act, 2017</i> came into effect that allows HCRA to impose administrative penalties up to \$50,000 per occurrence directly to any individuals and/or corporations that breach their legal and ethical obligations, which includes anyone found to have engaged in illegal home construction. Regulatory changes were also made to establish an appeal process through the Licence Appeal Tribunal for any individual and/or corporation wishing to dispute a penalty imposed by HCRA. (Since the Standing Committee on Public Accounts tabled its report in February 2021, responsibility for licensing builders has been transferred from Tarion to HCRA.)</p> <p>In our follow-up, we found that Tarion is entering into an agreement with the Ministry of Finance (to be in place by the end of December 2023) to share information about illegal builders for investigation of potential tax evasion.</p>
<p>Recommendation 14</p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Government and Consumer Services:</p> <ul style="list-style-type: none"> establish a process to track and analyze information provided by Tarion Warranty Corporation; Status: Fully implemented. establish performance indicators and targets to measure Tarion Warranty Corporation's performance; Status: Fully implemented. assess Tarion Warranty Corporation's performance against these targets on a regular basis and take corrective actions where necessary. Status: Fully implemented 	<p>In our follow-up, we found that the Ministry implemented a process to collect, track and analyze information received from Tarion. The Ministry created a guide that includes procedures for Ministry staff related to their oversight activities. For example, the Ministry developed process maps that depict the types of analysis that Ministry staff should do when they receive information from Tarion. The Ministry also created an oversight tracker toolkit to monitor Tarion's progress in meeting its key accountability obligations under both the <i>Ontario New Home Warranties Plan Act</i> and the administrative agreement with the Ministry.</p> <p>In our follow-up, we found that the Ministry had developed performance indicators and targets to monitor Tarion's performance. Tarion reports on the outcomes of these performance indicators in its annual report. Indicators include measuring new homebuyer satisfaction with, and timeliness of, Tarion's services, including its call centre and inspections. In addition, twice a year, Tarion issues a report to the Ministry on high- and medium-risk items that are identified through monitoring of its key performance and risk indicators. When items are identified as high-risk, mitigation efforts are detailed in the report.</p>

Committee Recommendation	Status Details
<p>Recommendation 17</p> <p>The Standing Committee on Public Accounts recommends that Tarion incorporate their financial statements in their public annual report, including an extensive quantitative and qualitative analysis that should include, but not be limited to, operations, compensation, legal expenses including and delineating those incurred with respect to homebuyer appeals, discussion of the reserve fund and claims, rationale and a trend analysis on this information.</p> <p>Status: Fully implemented.</p>	<p>In our follow-up, we found that beginning in 2020, full audited financial statements and more qualitative analysis on its operations were included in Tarion's public annual report. Beginning in 2021, Tarion included both legal costs associated with the Licence Appeal Tribunal and costs associated with collections in its financial disclosure. Information about Tarion's reserve fund continued to be reported and audited on an annual basis.</p>