



TARION OMBUDSPERSON OFFICE

ANNUAL REPORT 2015

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OMBUDPERSON'S MESSAGE

The Tarion Ombudsperson Office (the Office) receives, investigates and seeks to resolve complaints from homeowners regarding their interactions with Tarion. The goal of the Office is to protect and promote fairness within Tarion and is an impartial, independent and confidential resource. We do not take sides in a complaint, but work to secure fair outcomes. The Office reports directly to the Tarion Board of Directors, and its independence is protected by the Terms of Reference for the Ombudsperson. This report provides an update on the activities of the Office in 2015 as well as a summary of cases and recommendations.

Since its creation in 2009, the Office has worked to establish operating procedures that reinforce the principles of independence, impartiality, confidentiality, accessibility and fairness. We continue to benchmark our practices against other Ombudsman offices in the public and private sectors. I am proud of the work we have done to promote and protect fairness for home buyers.

We continue to focus on complaint mitigation through early resolution, complaint tracking, identification of root causes of problems and advice to complainants regarding how to resolve their concerns. We also use complaint prevention strategies, by providing advice and feedback to Tarion about complaint trends and emerging issues. This approach allows the Office to play an important role in resolving issues at an early stage, while using investigations to address more complex cases and systemic issues.

This year's annual report message focuses on complaint trends and the evolving standard of fairness since the Office was established. The Ombudsperson tracks complaints and uses this information to provide feedback to Tarion, and as background for investigations and recommendations. We now have

seven years of complaint data, which allows for a more detailed reflection about the complaints we received.

In 2009, the most common complaint we received was about warranty timelines and form submissions. By 2012, this complaint had virtually disappeared due to the implementation of MyHome (the homeowner portal on Tarion.com). Another common complaint in 2009 and 2010 was that Tarion would unilaterally issue decision letters. This complaint is no longer common because Tarion has learned to work with homeowners after a warranty assessment is completed. We now see more discussion of the warranty assessment, and a greater opportunity for parties to provide additional information to Tarion following a contested warranty assessment. In 2015, the most common complaint relates to dissatisfaction with Tarion decisions. The most frequent recommendation made by our office was to improve communication related to decisions.

Tarion has changed significantly in the seven years that the Office has been in place, which can be credited to the effort all staff have made to make Tarion more fair and transparent. We have seen the Warranty Services Department in particular become more open to questions, criticism and recommendations from



the Ombudsperson. I would like to see this change replicated across Tarion. While it is important to recognize this progress, it is essential that Tarion continue to strive to improve. When the Ombudsperson Office was established, we drafted a fairness checklist and fairness standard against which we would assess Tarion's conduct.

Over the years the standard of fair conduct has become more rigorous. In 2009 our investigations identified gaps in policies and instances where Tarion made arbitrary decisions. By 2015 our focus has moved from gaps in policy and practice toward helping Tarion to incorporate fair practices into its day-to-day operations. This improved standard of fairness is an essential aspect in promoting fair conduct within Tarion while meeting the objective of ongoing improvement.

Since 2009 the Ombudsperson has made over 170 recommendations to Tarion. Over 98% of these recommendations have been accepted and implemented. Some of the systemic recommendations have included improvements to:

- The process to ensure the fairness of chargeability decisions;
- Tarion communications through the incorporation of plain language principles;
- The process to deal with concerns about builder honesty and integrity;
- How Tarion deals with investigations into unwilling or unable builders.

Operational changes include improvements to the:

- Standards for documentation and storage of case information;
- Fairness of offers to settle claims;
- Fairness protections when homeowners cancel conciliations;
- Process of conducting mould investigation and remediation;
- Process for the receipt, and responses when Tarion receives expert reports.

In the 2012 Annual Report, I highlighted five areas where Tarion could improve:

- Improved decision-making;
- Understanding fairness;
- Reducing unnecessary delays;
- Improved internal communications about cases; and, hearing from both sides of a dispute before making a decision.

I am pleased to see that Tarion has made significant progress toward improving these areas. They are part of a larger process of cultural change within Tarion, and I encourage management to continue to focus on improving these areas. I would also like to reiterate the importance of Tarion improving cross-departmental communication and cooperation. Too frequently we see cases where different Tarion departments do not work effectively together. This impacts service to Tarion stakeholders.

Improving the quality of Tarion responses to Ombudsperson recommendations was a focus of my office in 2015. I continue to challenge Tarion to examine how it responds to problems, complaints and recommendations with an eye toward improving the effectiveness of the response. I have observed that Tarion is open to implementing changes to address problems, however, these changes sometimes rely on allocating individual staff members to affect change. These changes rely on temporary workarounds, and are highly reliant on the skills of individual employees. I encourage Tarion to look to understand the problem, then address the underlying issues by improving processes and addressing training for all affected staff, rather than relying on skilled individuals to fix a problem. Before implementing changes, I suggest that Tarion focuses on understanding the problem and considers the potential impact of changes. This will allow the changes to be effective, reliable and replicable.

I would like to provide some advice to consumers. This report identifies instances where Tarion could operate more fairly, however, Tarion is governed by the limits of The Ontario New Home Warranties Plan Act (the Act) and the warranty process. We regularly receive complaints from consumers who have not acted to protect their rights and interests. For example, a complainant did not submit any warranty forms because they did not think that Tarion would help. By the time they contacted the Office the warranty for the home had already expired. In cases like this, we are limited in what we can do to affect a positive outcome. Consumers must protect their rights by becoming familiar with the warranty program, knowing the relevant dates, reporting warranty concerns and requesting conciliations. Knowledgeable, active and engaged self-advocacy is the most effective way consumers can protect their warranty rights, and use the warranty program to provide fair and effective resolution of warranty complaints.





OMBUDSPERSON **OPERATIONS**

HOW

THE OMBUDSPERSON OFFICE WORKS

The Ombudsperson receives complaints from homeowners, but we work with many different stakeholders including homeowners, Tarion employees and builders. In doing so, we pledge to treat all who deal with our office with dignity and respect. We treat people fairly by:

- Listening to all sides of the story
- Ensuring we understand the perspectives of the people we serve
- Considering all the evidence available, and
- Giving reasons for our decisions

When the Ombudsperson Office receives a complaint, we seek to understand the concerns and obtain permission to look into the complaint. We then assess the complaint to see what efforts have been made to resolve the problem, and we provide advice and guidance to assist homeowners in resolving their concerns. If the homeowner has not spoken to Tarion about their complaint, we will discuss their concerns and provide advice, or refer complainants to the appropriate person

within Tarion. If the complaint is outside the jurisdiction of the Office, we will provide information to assist in resolving the concerns.

In cases where Tarion has already attempted to resolve an issue, the Ombudsperson Office will examine the complaint to review if the homeowner has been treated fairly. The Office will look for opportunities to resolve the case quickly and informally through a variety of conflict resolution techniques. In some cases, the Ombudsperson may investigate the complaint and issue a recommendation that ensures a fair resolution.

The Office strives to be responsive and timely in its work, establishing service benchmarks to help achieve this goal. We aim to respond to initial homeowner inquiries within 24 hours. Case reviews are completed within five working days of when we receive the homeowner's permission to access the case file. Early resolution and investigation can take longer to complete, depending on the circumstances. We

strive to complete early resolution within two weeks of receipt of the complaint. Investigation can take up to 90 days, depending on the circumstances of the case, during which time the Office makes it a priority to keep complainants apprised of the status of their complaints.

There are limits to the mandate of the Ombudsperson Office. We do not deal with complaints outside of the warranty plan, concerns about employee impropriety, or privacy concerns. For more information on the mandate for the Ombudsperson, please refer to www.tarion.com.

When the Ombudsperson finds that a complaint has been substantiated, the Office works with Tarion to determine a fair solution. In some cases, we make a recommendation about the dispute. We then monitor the response and implementation of any changes from the recommendation.





OMBUDSPERSON **STATISTICS**

JURISDICTION

OF OMBUDPERSON COMPLAINTS

The Ombudsperson Office received 270 complaints and inquiries in 2015. This is an increase from 2014. Of the 270 complaints, 253 fell within the jurisdiction of the Office (as outlined in the Terms of Reference which can be found on www.tarion.com). The majority of the non-mandate complaints were related to Tarion, but were excluded from our mandate. Complaints from builders are an example of a non-mandate complaint.

2015	WITHIN JURISDICTION	253
	NON-MANDATE	17
2014	WITHIN JURISDICTION	220
	NON-MANDATE	26
2013	WITHIN JURISDICTION	199
	NON-MANDATE	12
2012	WITHIN JURISDICTION	315
	NON-MANDATE	20
2011	WITHIN JURISDICTION	360
	NON-MANDATE	33

TOTALS:

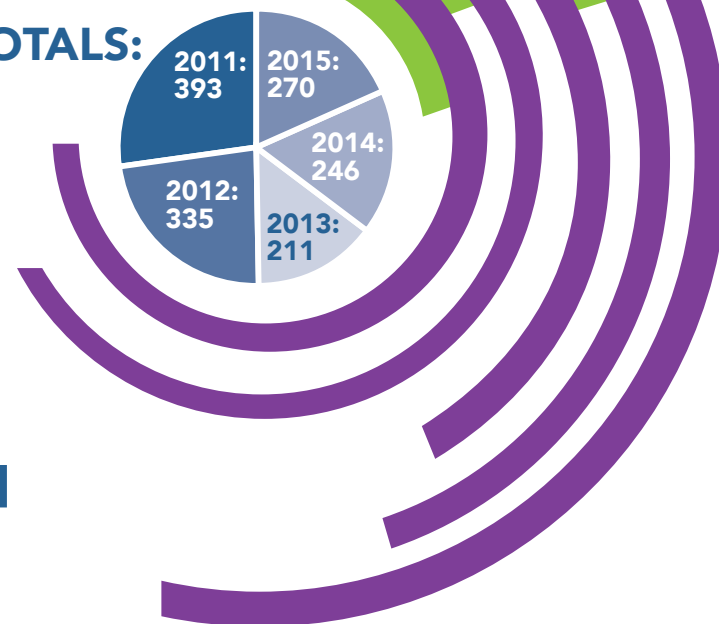


TABLE 1

TABLE 2

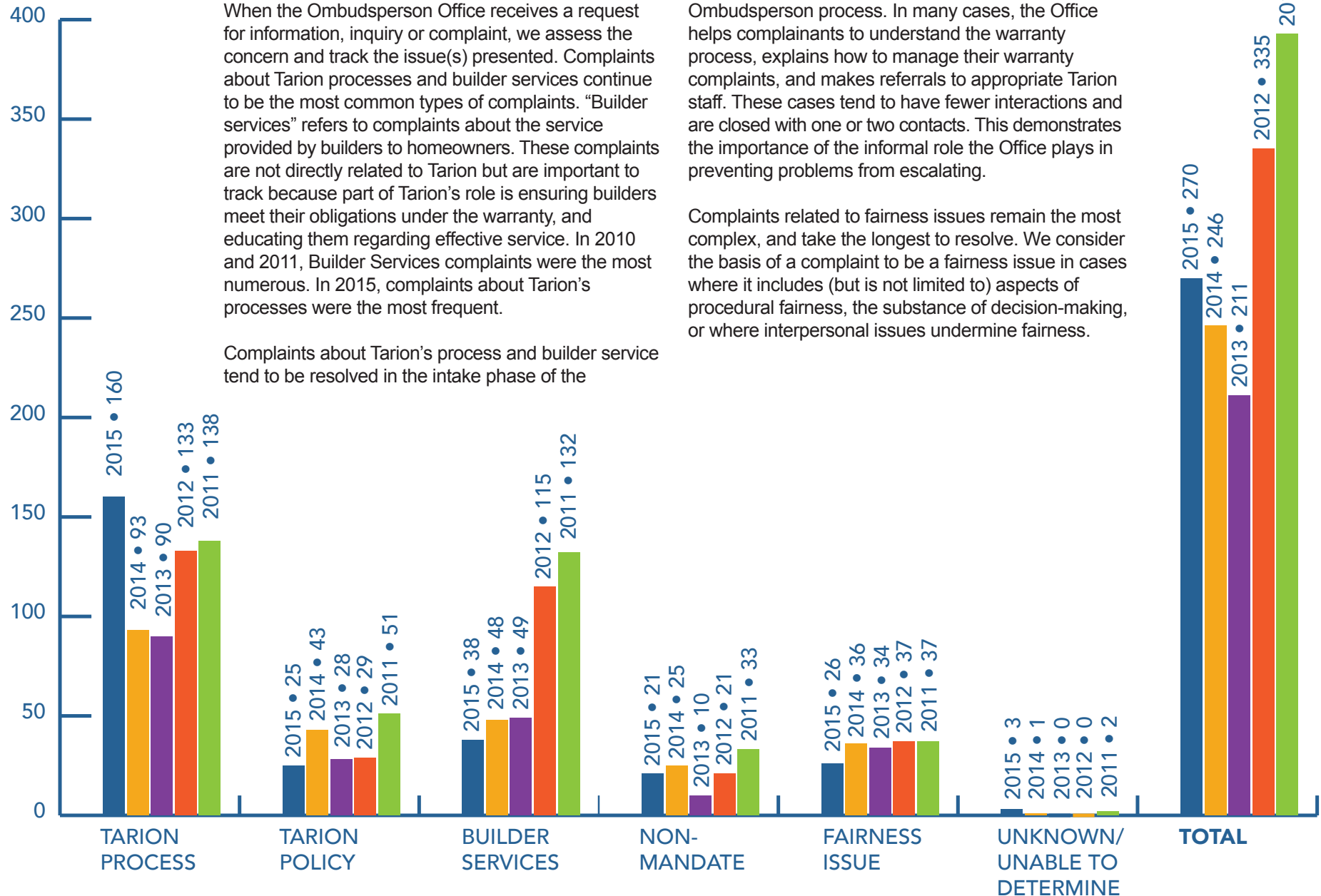
TYPES OF COMPLAINTS

When the Ombudsperson Office receives a request for information, inquiry or complaint, we assess the concern and track the issue(s) presented. Complaints about Taron processes and builder services continue to be the most common types of complaints. “Builder services” refers to complaints about the service provided by builders to homeowners. These complaints are not directly related to Taron but are important to track because part of Taron’s role is ensuring builders meet their obligations under the warranty, and educating them regarding effective service. In 2010 and 2011, Builder Services complaints were the most numerous. In 2015, complaints about Taron’s processes were the most frequent.

Complaints about Taron’s process and builder service tend to be resolved in the intake phase of the

Ombudsperson process. In many cases, the Office helps complainants to understand the warranty process, explains how to manage their warranty complaints, and makes referrals to appropriate Taron staff. These cases tend to have fewer interactions and are closed with one or two contacts. This demonstrates the importance of the informal role the Office plays in preventing problems from escalating.

Complaints related to fairness issues remain the most complex, and take the longest to resolve. We consider the basis of a complaint to be a fairness issue in cases where it includes (but is not limited to) aspects of procedural fairness, the substance of decision-making, or where interpersonal issues undermine fairness.



ACTION

AND RESOLUTION

Action refers to how the Ombudsperson dealt with the complaint. **TABLE 3** shows the important role the Ombudsperson Office plays in informally resolving complaints. It demonstrates how the Ombudsperson works to resolve concerns informally by providing information, referral and advice. The Ombudsperson is designed to be an office of last resort. This means that complainants need to address their concerns to the relevant Tarion department before we will investigate a complaint. Most cases where we provide advice and referral are premature, because the complainant has not addressed their concerns to the appropriate Tarion department. In these cases, we provide information about the complaint process and advice to complainants about how to effectively complain to Tarion. It is our experience that in most of these cases, homeowners are able to resolve their complaints and inquiries with only one contact with the Ombudsperson Office.

Intervention refers to cases where the Office attempts to resolve complaints using a variety of conflict resolution techniques and strategies. Investigation refers to formal investigations which result in findings and recommendations. We continue to focus our interventions toward early resolution. We have found it more effective to focus on conflict mitigation through early resolution than investigating what went wrong after the fact.

Investigation remains an important function of the Ombudsperson Office and is used when problems cannot be resolved informally, where there are disputes over the facts of the case or where the problem may have systemic implications. The number of cases where a formal investigation is required remain low because we are able to resolve complaints informally, and are able to make case-specific recommendations following informal interventions.

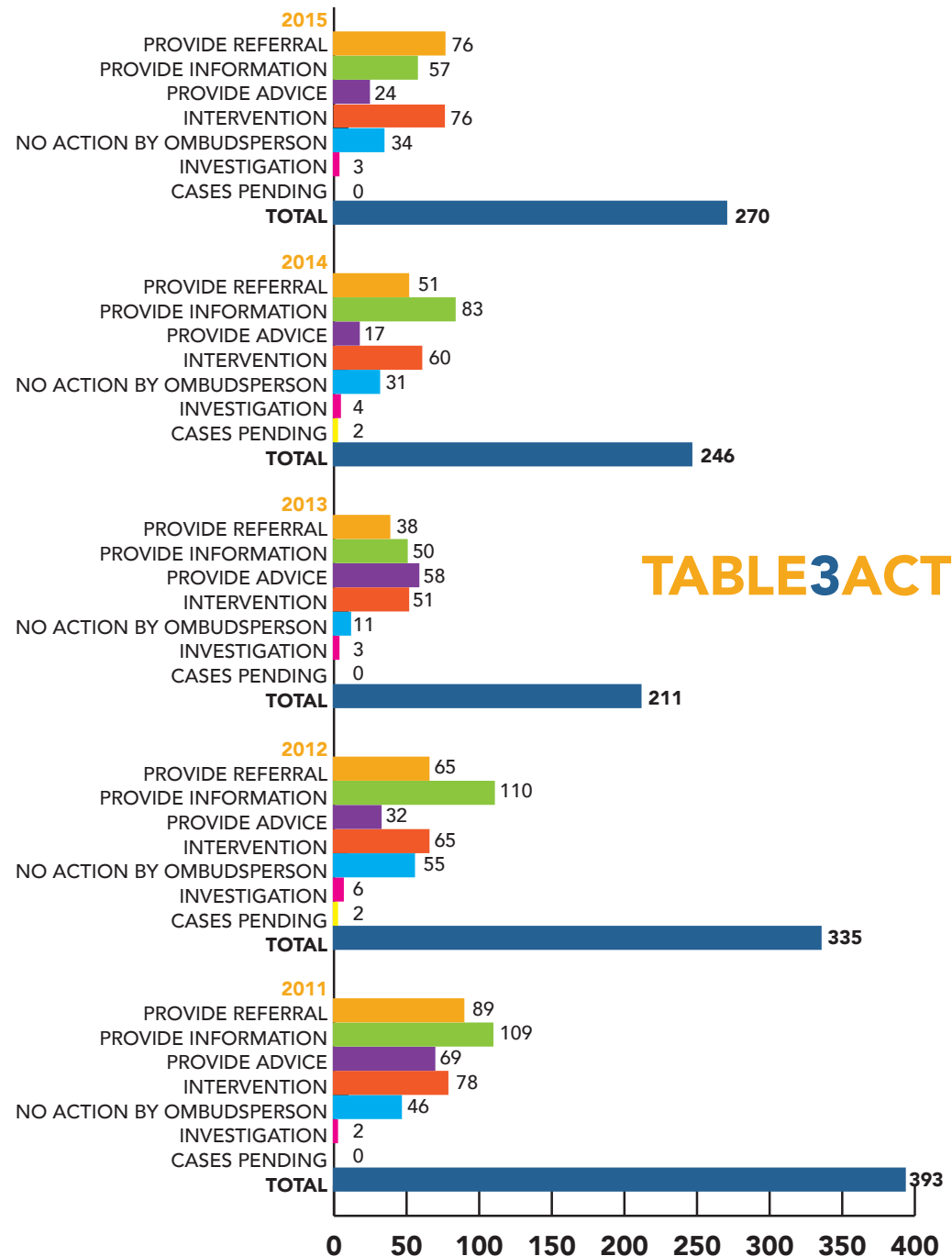


TABLE 4 shows how the complaints and inquiries were resolved, and how this corresponds to the phases of the Ombudsperson complaint process: intake, early resolution and investigation. Cases that were closed during the intake phase were inquiries and requests for information where the issue was premature or fell outside the mandate of the Office. Issues are determined to be premature when complainants have not yet attempted to resolve their complaints with the relevant Tarion department. In these cases we provide information and referral to appropriate resources.

Early resolution involves advice and intervention by the Ombudsperson Office. Early resolution can take one of several forms: we can provide advice to complainants about how to resolve their concerns; we also attempt to resolve complaints through conflict resolution and negotiation; in some cases we conduct reviews to establish if a complaint is founded and may make recommendations. Investigation refers to a full and formal review of the file, interviews with relevant parties and conclusions based on the available evidence. Investigations may result in formal

recommendations. The Ombudsperson Office also has the authority to start “own motion investigations.” In these cases the Ombudsperson can choose to investigate an issue without an individual complainant. In 2015 we initiated an own motion investigation into Tarion’s process to determine if a home is eligible for warranty. This resulted in five recommendations to Tarion to improve the consistency and fairness of the process.

TABLE 4 RESOLUTION

Phase of Ombudsperson Process:	Action:	Number of Cases:	2015	2014	2013	2012	2011
Intake	Referral - Premature		62	41	35	56	78
	Abandoned by Complainant		13	20	10	55	43
	Referral/Information - Complaint out of Jurisdiction		17	18	6	17	23
	Information - Premature		44	52	38	86	82
	Referral/Information Complaint Unfounded		10	23	6	16	15
	Ombudsperson Office Withdrew		21	11	1	0	2
	Under Appeal		0	0	2	1	0
	In Litigation		0	0	0	2	2
Early Resolution	Advice to Complainant		24	11	55	28	65
	Review – Unfounded		15	23	12	19	13
	Facilitated Solution		21	11	8	17	23
	Review and Recommendation		8	12	7	13	13
	Early Resolution		32	19	27	17	32
	Compromised Solution		0	2	1	0	0
Investigation	Investigation – Unfounded		0	1	0	2	2
	Investigation and Recommendation		2	3	3	5	0
Pending	Cases with Outcome Pending		1	0	0	1	0
Total			270	246	211	335	393



OMBUDSPERSON **CASE STUDIES**

The following section includes case studies, which demonstrate how the Ombudsperson works, and provides an opportunity to learn from complaints. These examples are based on actual case files from the Ombudsperson Office. Some of the details have been changed to protect the confidentiality of the people involved.

CASE STUDY 1 INCORRECT INFORMATION

Mr. X contacted the Ombudsperson because he was frustrated with the information provided by Tarion. He reported that his builder made repairs to his home which involved caulking outdoor vents in frigid conditions and he was concerned with the suitability of the repair. Mr. X emailed his builder and copied Tarion requesting information about the type of caulking used and the process employed to apply the caulking. Tarion responded by saying that this information is not required under the Act and the builder can select the product and method of repair. Mr. X was asked to review the Construction Performance Guidelines (CPG) for more information. Confused, Mr. X wrote to the Ombudsperson Office inquiring if the above reference was correct as he was not able to find it in the CPG. He also wanted to know if he was prohibited from seeking this information from his builder.

We determined that while Tarion was correct in indicating that the builder has the right to determine the method of repair, there is nothing to prevent Mr. X or any homeowner from requesting information about the repair from their builder. Our office determined that Tarion's reference to the CPG and the Act was incorrect because they did not answer Mr. X's questions. We also found that Tarion did not respond to Mr. X's repeated queries for the above information for more than five months, thus demonstrating poor customer service standards.

Based on our findings, the Ombudsperson Office recommended that Tarion apologize to Mr. X for the lack of prompt response and provide an appropriate

explanation to the inquiry providing correct references. Tarion accepted the recommendation and worked with the builder and Mr. X to resolve any outstanding issues.

CASE STUDY 2 FOUNDATION DAMAGE

Mr. Y contacted the Office with a concern that his builder caused damage to the foundation of his home while excavating to build an adjacent dwelling. The builder promised Mr. Y that the foundation would be fully inspected and repaired but nothing was being done to that effect. The builder allegedly tried to cover up the damage in Mr. Y's home several times by tacking on insulation sheets to conceal the visible portion of the damaged foundation. Mr. Y was concerned that any warranty on the waterproofing of his foundation might be compromised by the damage caused. Mr. Y wanted the builder to uncover the length of the foundation wall to assess the extent of damage. At the time of this incident Mr. Y was in his second year of possession.

After enquiring with Tarion, our office established that this was not listed on a warranty form and because the damage was caused by a third party, and that Tarion had not acted on Mr. Y's concern. Due to the Ombudsperson's intervention, Tarion decided to conduct an Investigative Inspection. It was determined that the builder's excavator did strike the foundation with the backhoe bucket and damaged the waterproofing. Tarion required the builder hire a

professional engineer to assess the foundation. The engineer identified damage, and provided a scope of work for the repair. The builder completed the repair. During our intervention, it became clear that Tarion had received Mr. Y's complaint the same time as the Ombudsperson Office; however, Tarion had not responded. Our office's intervention triggered a positive response from Tarion who then influenced the builder to take measures to determine the extent of damage and repair it.



CASE STUDY 3

INCORRECT WARRANTY START DATE

Ms. A's home was to be completed and ready for occupancy in June, 2013. She received notice from the builder that occupancy would be delayed until March 2014, then further notice of delay to May 2014. The occupancy date was changed many times over the course of the following year, often without proper notice to Ms. A. Based on the builder's "firm" occupancy date of July 2015, she gave notice on her rental unit which was subsequently leased to another tenant. When the occupancy date was delayed yet again, Ms. A had no option but to move out of her rental unit and into a hotel room at her own expense. As the hotel stay stretched into days and then weeks, she became extremely anxious about the financial burden being imposed on her. Needing help to determine what her rights to compensation might be and how she could access them, she turned to the Ombudsperson Office for assistance.

The Ombudsperson referred Ms. A to the Warranty Services Department for help dealing with the delayed occupancy. Tarion provided her with the information she needed about the type and amount of compensation to which she might be entitled. Tarion also helped her through the process of applying for the delayed closing compensation.

In the course of reviewing Ms. A's file, the Ombudsperson discovered a documentation error that had the potential to affect her warranty coverage. It appeared that the builder had already registered the home with a warranty start date of one month previous to our review, even though the unit was not yet finished and the owner had not yet occupied it. The Ombudsperson Office brought this discrepancy to the attention

of Tarion and they immediately contacted the builder. The builder confirmed that the warranty start date was incorrect and that possession had not yet taken place. Tarion adjusted the warranty start date so that the home was registered correctly.

In this case, it was appropriate to refer Ms. A to the Warranty Services Department because she had not yet sought assistance from Tarion. The Ombudsperson Office did identify the discrepancy in the warranty start date, and through our action Tarion was able to correct the error. This is an important example of the preventative role played by the Ombudsperson Office.

CASE STUDY 4

FAIRNESS CONCERNS

In early October, Mr. M contacted the Ombudsperson Office with a complaint about the Year-End Warranty Assessment Report that he had recently received. None of the items on his Year-End Form were deemed warranted, and Mr. M felt that this was unfair. He was particularly concerned with two items: the grading and sodding of his yard and a leak in a section of eavestrough. The Ombudsperson reviewed his file and spoke with both Mr. M. and Tarion in order to gather all relevant information.

The Ombudsperson Office determined that the assessment of the grading and sodding was done in a fair manner, using standard Tarion process and that this was a matter of Mr. M. disagreeing with Tarion's decision, rather than a fairness issue. We explained to Mr. M that the Ombudsperson Office is not able to make or revise warranty assessments and that for this item, his recourse would be to appeal the decision to the Licence Appeal Tribunal.



However, in reviewing the file the Ombudsperson did uncover a concern about the assessment of the eavestrough. During the assessment inspection, Tarion was unable to perform water testing on the eavestrough due to its height and relied instead on a visual observation. This observation did not reveal any defects in workmanship or materials that would result in leakage. Mr. M. insisted that there was a leak and informed Tarion that he had video evidence of the defect. Tarion agreed to review this evidence prior to making a decision and issuing an Assessment Report. When Tarion did not receive the new evidence, a Warranty Assessment Report was issued deeming the eavestrough to be not warranted. What Tarion did not realize was that Mr. M. had submitted the video evidence prior to the inspection but that due to a communication error, its presence in the file was not known or acknowledged.

The Ombudsperson Office saw this as a fairness issue. Although the oversight was unintentional, the Warranty Assessment Report had been issued without reviewing all of the available evidence. We drew Tarion's attention to the presence of the video in the file and Tarion reviewed it. As a result, it was determined that the issue of the eavestrough required further investigation. A third party expert was contracted to perform the needed investigation and the item was re-assessed.

CASE STUDY 5

RESPONSE TO COMPLAINT

Mrs N. contacted the Ombudsperson to complain about a warranty assessment and what she perceived as unfair conduct by the Warranty Representative who attended her home. We reviewed the file and determined that she had not contacted Tarion to complain about the service she received. In reviewing her file we did notice some concerns with how the process had been conducted. Since she had not contacted Tarion regarding her concerns, Mrs. N would need to contact a Warranty Services Manager. We offered to make the referral. We contacted the manager, and requested that Mrs. N be contacted to discuss her concerns. We also highlighted the potential fairness issues, and requested that the manager keep these in mind while reviewing the complaint.

The manager contacted Mrs. N to hear her concerns, then reviewed the file in detail. Following the review, the manager apologized to Mrs. N and offered to have the home re-inspected by a different warranty representative. Mrs. N contacted our office again to express her displeasure with the result of the manager's review. Our office conducted a thorough review of the file, and determined that the manager had identified and responded to the unfair situation. We determined that the manager's response had addressed the unfair situation, and that further redress was unnecessary. We informed both Tarion and Mrs. N of our conclusions.

In this case, the manager's review was timely and thorough. It identified and acknowledged the fairness concerns, and proposed an appropriate solution to remedy the unfair situation. This is an essential function of a credible complaint system, and I encourage Tarion to use it as a model for reviewing concerns and complaints prior to the involvement of the Ombudsperson.





OMBUDSPERSON **RECOMMENDATIONS**

RECOMMENDATIONS

The mandate for the Ombudsperson Office includes resolving individual complaints and addressing systemic issues. An issue is considered systemic when a number of homeowners are affected by a Tarion process, and the concerns do not relate to an individual decision or action.

The Ombudsperson Office can make recommendations related to individual cases. These include suspending or postponing an action; reconsidering or changing a decision; and reducing delays. We can recommend that Tarion provide an apology or financial restitution. We make recommendations to improve communication, make changes to services or provide reasons for decisions in individual cases. Our systemic recommendations are to make changes to policies or general practice.

When we make recommendations, we work with Tarion to ensure there is understanding of the recommendation and specific agreement in implementing the recommendations. Following acceptance of the recommendation, the Office is in regular communication with Tarion regarding the implementation of recommendations. The Consumer Committee of the Board of Directors monitors Management's response to the recommendations.

SYSTEMIC RECOMMENDATIONS

Update on Recommendations in the 2014 Annual Report

The 2014 Annual Report contained three systemic recommendations. These recommendations dealt with: Recommendation Response and Implementation; Policy and Process Training; and Unwilling and

Unable Process Review. Management accepted the recommendations and responded to them in the 2014 Annual Report. I can confirm that Tarion has since implemented its responses to the recommendations within the agreed upon timeframe.

2015 Annual Report Recommendations

This year's report contains four recommendations. They are directed toward improving practices, and enacting changes geared to conflict prevention.

Delayed Closing, Financial Loss and Deposit Claims Process

During 2015 we reviewed the history of complaints about Delayed Closing, Financial Loss and Deposit claims. The process Tarion uses for these cases is different from other warranty complaints because the assessments tend to be based on document reviews, rather than physically inspecting the premises.



The Ombudsperson considers the following to be fundamental requirements of a fair process:

1. Pre-conditions for fair process:

- a. Clear decision-making responsibilities
- b. Clear and consistent decision-making process and communication
- c. Clear determination of responsibility for the decision
- d. Clear rules for decision, and collection of precedent cases
- e. Necessary expertise in decision-making
- f. Ensuring there is a review process to assess if the process is working and fair

2. Investigation

- a. Is the process fair?
- b. Are affected parties notified that a decision is going to be made and given a chance to provide information?
- c. Is all the information/facts taken into consideration and given the same weight?
- d. Are decisions made within a reasonable timeframe for the investigation?

3. Decision

- a. Clear application of the Act and rules
- b. Decision-maker exercises reasonable discretion, within the public interest and consistent with Tarion's consumer protection mandate
- c. Decisions contain clear and meaningful reasons
- d. Decisions are communicated by the decision-maker
- e. If new information becomes available, who reviews it and who is needs to be advised?
- f. Affected parties are advised of their appeal rights
- g. Decision is communicated in a clear and timely manner

4. After Decision

- a. Information pertaining to the inquiry is stored in a consistent area with consistent filing criteria
- b. Decision is accessible to all relevant departments
- c. If a new situation emerges, what is there a defined process to review past projects or decisions that are similar and is there a need for legal review?
- d. Where the decision resulted in a new situation who would document the new process?
- e. Where the decision resulted in a new situation how would Tarion inform all stakeholders?
- f. If the decision is appealed is there a consistent person to be able to respond to the Licence Appeal Tribunal?

It was our conclusion that the current approach does not meet the requirements of a fair process. We are concerned that the process to determine the claim was not predictable or consistent. The timelines were not clear, and several cases had delays. The internal operating procedure documents did not support fair practices. We also identified that opportunities to submit claim information was inconsistent. Finally, we were concerned that Tarion appeared to prejudge cases before all the relevant information had been submitted, and it appeared difficult to bring cases to a final decision.

Therefore, the Ombudsperson recommends that Tarion review and revise its procedures for Delayed Closing, Financial Loss and Deposit Claims to ensure that they meet the requirements of a fair process.



Policy and Process Development

Since the inception of the Ombudsperson Office, we have focused on encouraging Tarion to develop effective operational policies to support consistent fair practices. While we see that Tarion has responded to recommendations by developing policies, policy development overall is on an ad-hoc basis. This results in policy development that can be inconsistent and reactive. We are also concerned that attention is focussed on implementing new policies without an ongoing review of existing practices, or impact on other departments. In addition, the ongoing systematic infrastructure to support policy review, development and implementation is lacking. The Ombudsperson recommends that Tarion review its policy development and implementation process and implement changes to make it more effective.

New Builders Outreach

A review of the cases received show increased frequency of complaints where the homes were constructed by newly registered builders. It is our experience that with these cases, builders are often unfamiliar with their warranty responsibilities. The result is that Warranty Services staff are educating these builders about their responsibilities before conciliations. It is our experience that the homeowners are very frustrated by the level of service they receive. Tarion is treating the homeowners fairly, however, the warranty concerns are more difficult to resolve due to the inherent frustration. Tarion could prevent these problems by developing a more effective outreach strategy for new builders. Beginning September 1, 2015, Tarion introduced education requirements for new builders. Courses related to the warranty and customer service are mandatory requirements, however, there is a cohort of builders who predate these requirements. Even once the educational requirements are fully in effect, it would be beneficial for Tarion to have an outreach and education strategy

for builders who are managing the warranty process for the first time.

The Ombudsperson recommends that Tarion develop and implement an outreach and education strategy for new builders.

Contract Homes

Review of Ombudsman cases show that some of the most complex cases relate to contract homes. Issues can range from warranty concerns, to financial loss claims, eligibility of a home for warranty and illegal building. It is our experience that homeowners may complain to us about different aspects of Tarion, but the underlying issue is that Tarion is reactive to these problems. We have concluded that Tarion needs to develop more effective means of preventing problems from occurring with cases involving contract homes. This includes improved consumer education of their rights and responsibilities; improved builder education of their rights and responsibilities; developing an improved screening process to identify eligibility issues and an improved Work The File process for contract homes.

The Ombudsperson recommends that Tarion review how it deals with contract homes, and implements changes to ensure that the organization is more proactive in its approach to warranty issues with these homes.

Conclusion

Since the Office was established we have received over 2,100 complaints and inquiries. The role of the Ombudsperson extends beyond resolving individual complaints, and toward promoting fair practices across Tarion. The Ombudsperson Office achieved success in 2015 by working with employees from

every department within Tarion. I am proud of the role the Ombudsperson Office has played in affecting positive change within Tarion, and appreciate that both Tarion Management and the Board of Directors support this important role. I would like to extend my gratitude to all the employees with whom the Office interacted this year. Fair solutions have been found as a result of their professionalism, collaboration and commitment to service. I look forward to continuing to work collaboratively to resolve complaints, and promote fair practices in the future.

Ian Darling,
January, 2016.

MANAGEMENT RESPONSE

Part of the mandate of the Ombudsperson's Office is to identify complaint trends and systemic issues, and to recommend improvements. On behalf of the Board of Directors, Tarion's management team is pleased to respond to the 2015 Ombudsperson Annual Report:

Management is committed to continuous improvement and understands that the recommendations of the Ombudsperson contribute to our continuous improvement. Accordingly, we will strive to ensure that the manner in which we respond to both (a) the Ombudsperson recommendations in the report (and going forward); and (b) the Ombudsperson's day to day recommendations, will create effective, reliable and replicable fixes. It is our undertaking to "test" any proposed solution to an Ombudsperson recommendation for effectiveness, reliability and replicability in addition to responsiveness to the Ombudsperson's observations.

Recommendation 1

Management will conduct an internal review of its Financial Loss, Deposit and Delayed Closing claims process, including such issues as the opportunity for claims submission with clearer timeframes and concerns about prejudgment of outcomes - Timeframe April 30, 2016.

Following the review, management will work toward developing and implementing a process in an effort to meet the fairness issues.

Timeframe for development of new processes - July 1, 2016

Timeframe for implementing new processes - September 30, 2016.

Recommendation 2

Management will review current policy development practices with the intent to have a more effective process. This will include development of a regular review process and determining where it is best managed within Operations. - Timeframe April 30, 2016.

Recommendations for changes will follow the review - timeframe July 1, 2016.

Timeframe for implementation will be determined based on what is required to support the recommendations.

Recommendation 3

The new mandatory builder education requirements implemented in September 2015 are now in place. In addition to these requirements, Stakeholder Relations is currently reviewing which touch points can be created to ensure more effective and timely communication and education about warranty responsibilities with new builders in the first two years of their tenure - timeframe April 30, 2016. Stakeholder Relations will consider developing a pilot project to implement and monitor activity as statutory forms are received for new builder potential conciliations - timeframe July 1, 2016.

Recommendation 4

Management will review the current Contract Homes process and existing requirements to determine and make recommendations on what proactive measures can be implemented - timeframe April 30, 2016.

Management will consider the possibility of developing a standard contract which would be a mandatory requirement - timeframe September 30, 2016.

Howard Bogach
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