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# ANNUAL REPORT MESSAGE



While the complaints we receive are based on at least three types of Tarion decision making, our focus remains on one thing: fairness for stakeholders.

The New Home Buyer Ombudsperson office promotes and protects fairness within Tarion. We have a mandate to receive, investigate and seek to resolve complaints. We make recommendations about individual cases and identify trends, policy matters and make recommendations to improve systemic issues.

The mandate for the office outlines six operating principles: **Independence, Impartiality, Confidentiality, Informality, Accessibility** and **Fairness**. The front cover of this year's report highlights and integrates these principles into the Tarion logo to remind stakeholders of their continuous application in all of our work at Tarion.

This report provides more information regarding the relationship between the Ombudsperson and Tarion through an update on the activities of the Office as well as case studies and recommendations

In 2013, the Tarion Ombudsperson Office (the Office) continued to refine its focus on complaint prevention by early resolution, complaint tracking, identification of issues and advice to complainants regarding how to resolve their concerns. This approach allowed the Office to play an important role in resolving issues at an early stage. By focusing on early and informal resolution, the Office is able to resolve issues quickly, while using formal investigations to address more complex cases and systemic issues.

## Role and Scope of the Ombudsperson

The Tarion Ombudsperson 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. Frequently we receive requests from homeowners who are dissatisfied with a Tarion decision, and reach out to our office to overturn an assessment. While we do not make warranty decisions, we do consider cases where an unfair process influences the outcome of a warranty decision. The best way to understand this is to consider the types of decisions and actions about

which we receive complaints.

The Office deals with three different types of decisions and actions within Tarion: administrative decisions; warranty decisions; and hybrid decisions.<sup>1</sup>

**Administrative decisions** relate to a decision or series of decisions about the organization and delivery of Tarion's services. These decisions relate to how Tarion delivers its services to stakeholders. For example, if through the investigation of a complaint, we identify an absence of a policy, recommendations to create a policy would relate to administrative decisions.

**Warranty decisions** relate to Tarion's role in adjudicating and conciliating disputes between homeowners and builders about warranty coverage and protection. These specifically relate to decisions made in the process of applying warranty coverage and protections (including application of the customer service standards, the assessment of whether a claim is warranted, and resolution of defects). A substantial portion of the complaints we receive are about Tarion's warranty decisions. We review each complaint to determine if Tarion was fair. If we find that Tarion is fair, then we inform complainants that the process is fair, and complaints about the substance of the decision fall outside the mandate of the Ombudsperson. These decisions can be appealed to the Licence Appeal Tribunal.

**Hybrid decisions** have aspects of administrative and warranty elements. They relate to how administrative policies influence warranty decisions. When the absence of, or errors in the application of a policy results in an unfair warranty decision, then it is considered a hybrid decision, which falls under the mandate of the Ombudsperson.

The majority of complaints we receive fall into the hybrid category. If the Ombudsperson finds that Tarion was unfair, we must also assess the effect of the unfair situation. An unfair process does not always lead to the wrong outcome – but we must assess the

1. Adapted from Ombudsman Saskatchewan, "Administrative versus Clinical Decisions." Accessed January 2014.

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# ANNUAL REPORT

## MESSAGE(continued)

impact of the unfair situation. When the complaint is substantiated, recommendations to resolve the complaint must consider the impact of the error, and what would be necessary to make the situation fair.

These issues are best extrapolated in a case study. In one instance, we received a complaint where Tarion had attended a home to assess a defect. The defect was found not to be warranted. The homeowners disputed the finding, and Tarion invited them to provide additional information to substantiate the defect. The homeowners hired an engineer, who provided a report. Upon receipt of the report, Tarion would not change the decision. Our investigation revealed that Tarion had read the report, but did not provide an updated assessment. Nor did Tarion provide any information as to why the additional information did not change the assessment. We determined that Tarion's response to the engineer's report was not fair. We also looked to see if not responding to the report was an indication of a systemic problem, and determined that Tarion needed to update a policy and provide additional training.

In this case, since Tarion appeared to ignore the report we concluded that the process was not fair. We did not have the authority or expertise to recommend that Tarion reverse its decision and warrant the defect. We recommended that Tarion should reconsider the original assessment and apply the new information contained in the report. We also recommended that if Tarion did not change its assessment of the defect, it should provide reasons to substantiate the findings.

Additionally, we made recommendations to address the policy gap, and provide training. The Ombudsperson communicated these recommendations, which Tarion accepted. In this case, we found the unfair process resulted in an unfair decision. Our recommendations sought to rectify the individual complaint, and the administrative gap.

An understanding of the nature of administrative, warranty and hybrid decisions provides perspective on the circumstances when unfair practices overlap with warranty decisions. While we do not make warranty decisions, when Tarion is unfair, we must look at its impact on Tarion's decision-making. The Ombudsperson is an advocate for fairness. Unfair processes create unfair decisions, and our interventions continue to seek appropriate redress to restore fairness.

### Thanks

The Ombudsperson Office has achieved success in 2013 by working with employees from every department within Tarion. 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 together.

Ian Darling,  
January, 2014.

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# OMBUDSPERSON OPERATIONS

## How the Ombudsperson Office works

The Ombudsperson receives complaints from homeowners, but works 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 look to see what has been done to resolve the problem and provide advice and guidance to assist homeowners in resolving their concerns. If we are the first people that the homeowners have contacted, 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 attempted to resolve a complaint, 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 informally through a variety of conflict resolution techniques. In some cases, the Ombudsperson may choose to investigate the complaint and issue a recommendation that ensures a fair resolution.

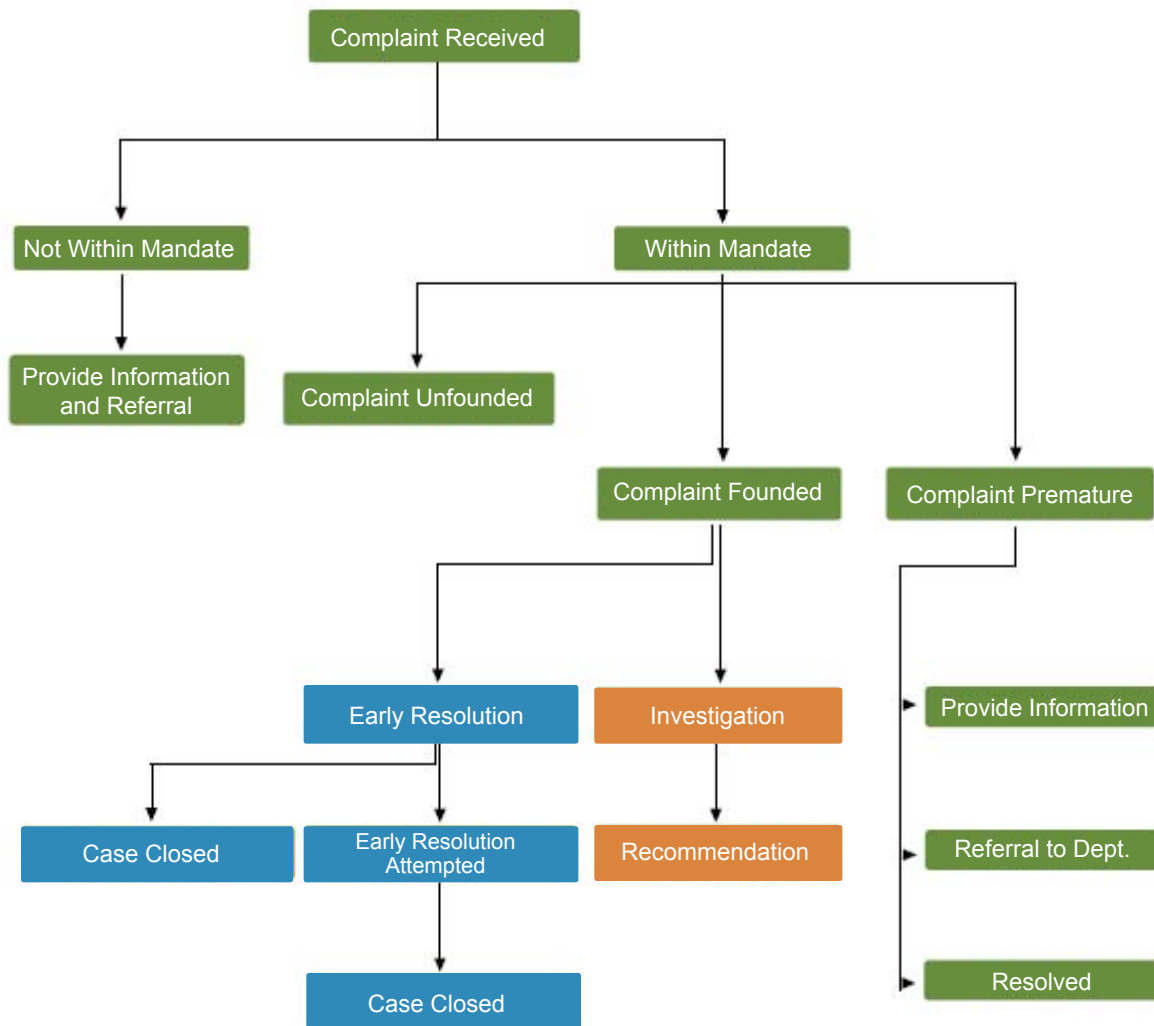
The Ombudsperson Office strives to be responsive and timely in its work, establishing service benchmarks to help achieve this goal. We aim to respond to initial home owner inquiries within 24 hours. Case reviews are completed within five working days of when we receive the home owner's permission to access the

case. 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 (the Ontario New Home Warranties Plan Act), concerns about employee impropriety, or privacy concerns. For more information on the mandate for the Ombudsperson, please refer to [www.tarion.com](http://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, or systemic issues that affect more than one home. The Ombudsperson attempts to ensure the remedy addresses the problem.

# OUR PROCESS



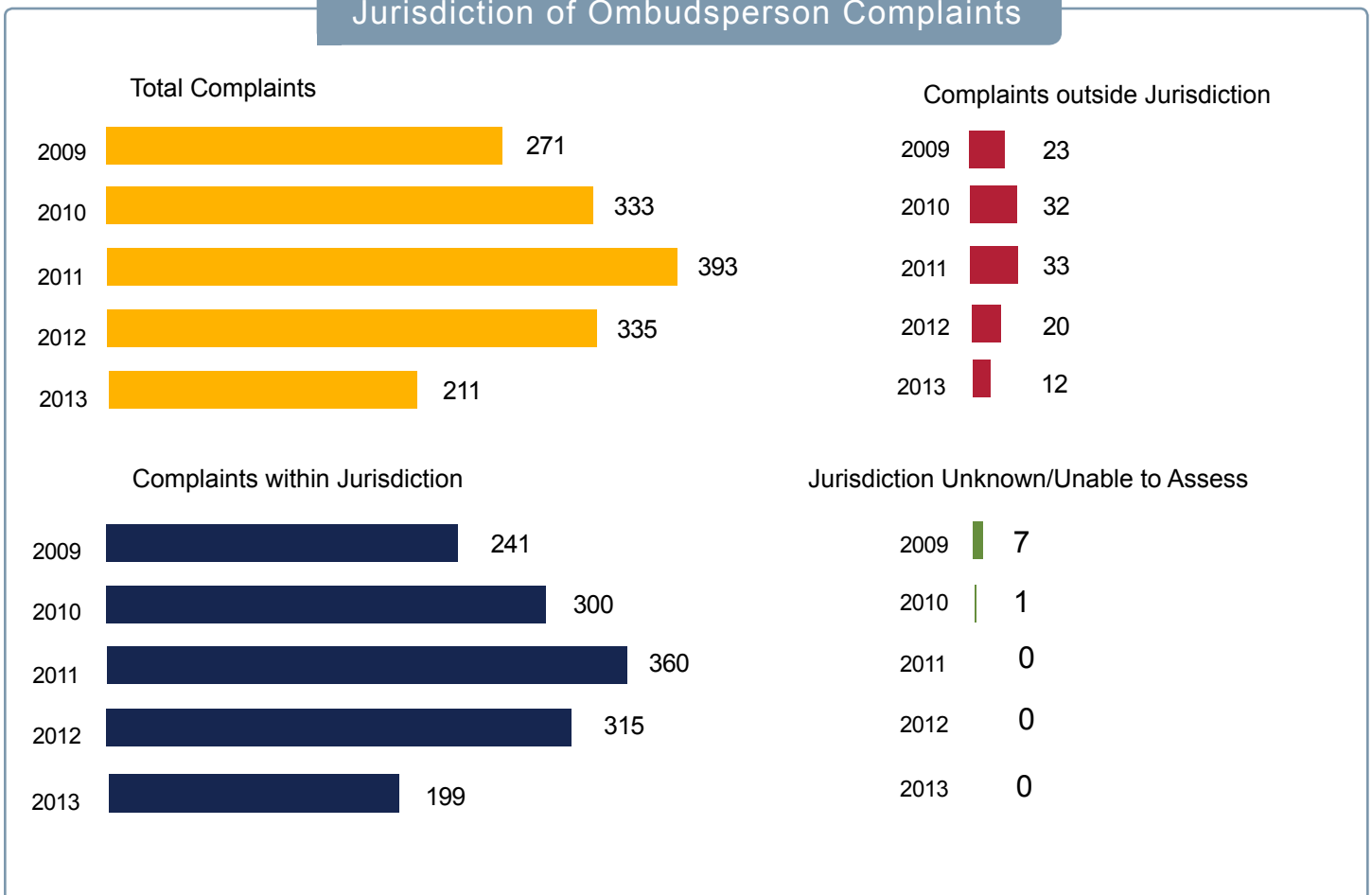
# STATISTICS

The Ombudsperson Office received 211 complaints and inquiries in 2013. This is a decrease from 2012. This is the second consecutive drop in cases, and represents the lowest complaint volume since the Office was established. The reduction in the total number of contacts with the Ombudsperson may be explained in part by Tarion implementing a recommendation that appeared in the 2012 annual report. In that report, I commented that Tarion did not provide information to consumers on how to complain about Tarion. As a result, the Ombudsperson Office was often the first point of contact for a complaint. The Office is designed to be the final stage in the complaint process, but consumers were not aware where to start. In many of these cases we provided basic advice or information about how to navigate Tarion's complaint process. After Tarion implemented the recommendation, the number of premature complaints to our office decreased. Along with the drop in overall complaints, we have also seen fewer complaints that fall outside of the

mandate for the Office and a decrease in the number of complaints about builder services. While we have seen a decrease in the complaints that are resolved in a single interaction, we have also seen an increase in the proportion of complaints that relate to Tarion, policies, processes or other fairness issues. These complaints tend to be more complex, and require more work to resolve.

Of the 211 complaints, 198 fell within the jurisdiction of the Office (as outlined in the Terms of Reference which can be found on [www.tarion.com](http://www.tarion.com)). The number of complaints that were outside the jurisdiction of the Ombudsperson Office was the lowest since the establishment of the Office. 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.

## Jurisdiction of Ombudsperson Complaints



### Type of Complaint

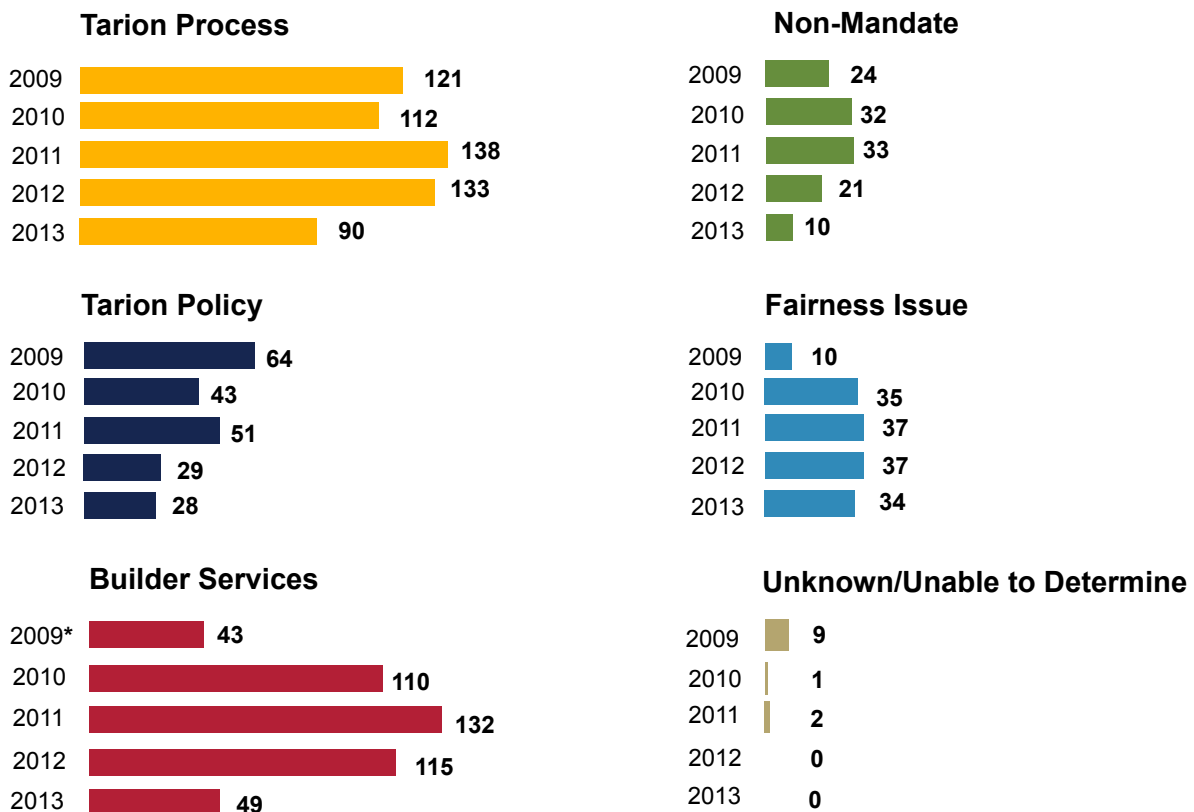
When the Ombudsperson Office receives a request for information, inquiry or complaint, we assess the concern and track the issue(s) presented. Complaints about Tarion processes and builder services continue to be the most common types of complaints. Builder services refers to complaints about the service provided by builders to homeowners. These complaints, which had the highest growth in 2011, are not directly related to Tarion but are important to track because Tarion has a role in ensuring that builders meet their obligations under the warranty and educating builders regarding effective service.

Complaints about Tarion’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 Tarion 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.

Types of Complaints Received by Ombudsperson



\* The Ombudsperson Office started tracking Builder Services complaint issues as a separate category in July 2009.

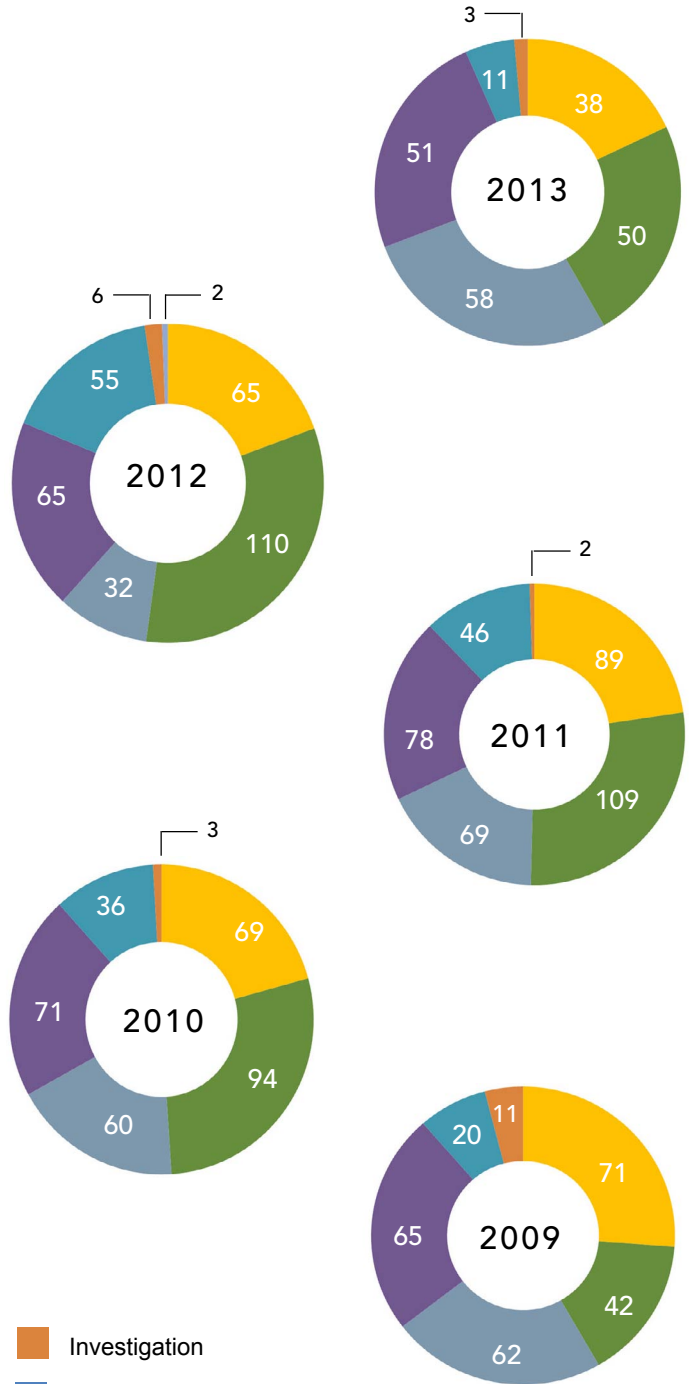
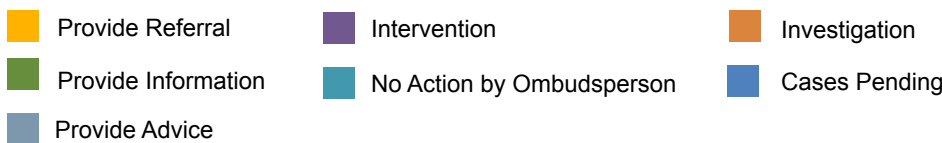


**Actions**

Action refers to how the Ombudsperson dealt with the complaint. The charts at right show 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 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, staff in the Ombudsperson Office provide 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 as we have found it more effective to focus on conflict prevention 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.



**Resolution**

The table below shows how the complaints and inquiries were resolved, and how this relates to the Ombudsperson complaint process. The phases of the Ombudsperson process are 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. In these cases we

provide advice to complainants on 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 and interviews with relevant parties and draws 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.

Phase	Resolution	# of Cases				
		2009	2010	2011	2012	2013
Intake	Referral - Premature	57	51	78	56	35
	Abandoned by Complainant	29	34	43	55	10
	Referral/Information - Complaint out of jurisdiction	18	25	23	17	6
	Information - Premature	14	67	82	86	38
	Referral/Information Complaint Unfounded	5	17	15	16	6
	Ombudsperson Office Withdrew	5	2	2	0	1
	Under Appeal	0	0	0	1	2
	In Litigation	0	1	2	2	0
Early Resolution	Advice to Complainant	47	48	65	28	55
	Review - Unfounded	35	29	13	19	12
	Facilitated Solution	22	16	23	17	8
	Review and Recommendation	20	16	13	13	7
	Early Resolution	5	24	32	17	27
	Compromised Solution	3	0	0	0	1
Investigation	Investigation - Unfounded	6	0	2	2	0
	Investigation and Recommendation	5	3	0	5	3
Pending	Cases with outcome pending	0	0	0	2	5
Total		271	333	393	335	211

# CASE STUDIES

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

## Case Study #1: Missing Reasons

Mr. B. contacted the Ombudsperson Office to complain about a warranty assessment. He advised that Tarion had attended his home to conduct a conciliation inspection on his year-end case. Mr. B received the report, and was disappointed that the report did not explain why the defect was not considered warranted. Mr. B stated that the Tarion Warranty Service Representative (WSR) had taken several measurements during the inspection, but the measurements were not discussed or included in the report.

We reviewed the case, and discussed the concerns with the WSR, who confirmed that he had taken several different measurements during the inspection. Once he reviewed the measurements, he determined that the issue was not a warranted defect. The decision was correct, however, it was not fair that the reasons for the decisions were not provided to the homeowner. Making a fair decision is more than just coming to the right conclusion – it involves a fair process that considers all the relevant information, and provides answers which clearly show how the information gathered supports the final conclusions. In this case, Mr. B had no way of knowing if the decision was correct because the reasons and evidence to support the decision was missing.

The Ombudsperson Office found that the assessment was not fair because the report did not provide sufficient reasons to support the findings. We suggested that Tarion provide the measurements and reasons for the decision. Tarion accepted the recommendation, and provided the homeowner with the relevant information.

## Case Study #2: Conciliation Fee Dispute

Ms. J contacted the Ombudsperson Office to complain about being required to pay the conciliation fee for an inspection to determine if she had a Major Structural Defect (MSD) in her home.

Tarion started requiring a conciliation fee for MSD inspections in July 2012. Ms. J had previously reported a suspected MSD to Tarion in 2011. At the time there was no fee. Ms. J felt that it was not fair that she would have to pay a conciliation fee in this case



as she was not required to pay a fee in her previous experience with Tarion.

The Ombudsperson reviewed the complaint and determined that Tarion's request to pay the fee was consistent with the policy. We also reviewed the case from 2011. The review showed that there was an MSD inspection in 2011 to review a foundation crack. The crack was found not to be a valid MSD at the time, but Ms. J was advised to monitor the crack and contact Tarion if the situation changed.

Our review determined that Ms. J had submitted a second MSD form because while monitoring the initial crack, she had observed changes and was following Tarion's direction. Ms. J was not contacting Tarion regarding a new issue, but was following Tarion's

instructions to contact them if there was a change in circumstances that required an additional assessment.

We recommended that Tarion consider this claim to be a re-inspection of the original MSD issue. In this case, it was not fair to charge the conciliation fee because this was a re-inspection of a previous item, rather than a new warranty claim. Tarion agreed with our recommendation, and scheduled a re-inspection of the issue without requiring the fee.

**Case Study #3: Fair Chargeability Decisions**

Mr. and Mrs. A. contacted the Ombudsperson Office to complain about the results of their warranty assessment. They disagreed with Tarion’s findings on several items. We reviewed the file, and found that Mr. and Mrs. A submitted a Year-End Form with 25 items on it. Of the 25 items, 10 were warranted and 15 were not. Of the 15 non-warranted items, the homeowners felt that 10 of those items should be covered under the warranty.

After our review of the file, we found that Tarion had been fair in making its assessment. Proper rules were applied, the homeowner’s evidence was reviewed when making the decision, and appropriate reasons for the decision were provided. We determined that this was an example of a fair process. We advised Mr. and Mrs. A that Tarion was fair in its process, but they could appeal to LAT if they wished to dispute Tarion’s assessment.

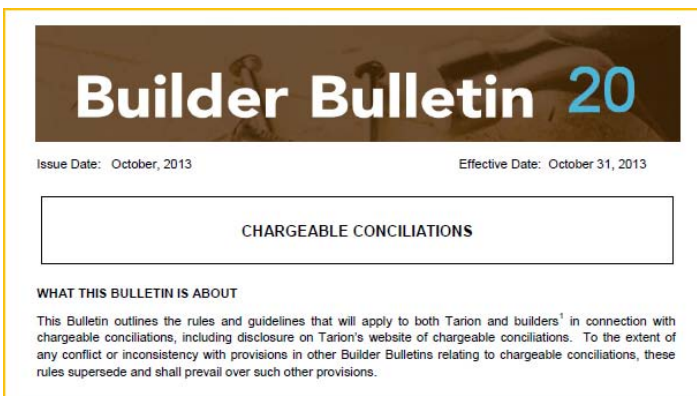
During our review of the file, we identified some concerns with the chargeability decision made by Tarion. As part of each conciliation process, Tarion makes a determination if the conciliation should be considered “chargeable” to the builder. Conciliations are considered chargeable if Tarion finds a warranted defect at the conciliation. A chargeable conciliation means that the conciliation goes on the builder’s record, is posted on Tarion’s website and the builder must pay a \$1,000.00 fee. There are exceptions to chargeability if the builder can demonstrate that he/she meets the criteria for not being responsible for an item remaining unresolved. In this case, it did not appear that the criteria to make the conciliation non-chargeable had been met.

We raised our concerns with the Warranty Services department, and asked that the decision be reviewed. It was also determined that more training was required for Field Staff in order to ensure that the decisions were consistent with Tarion’s rules. Tarion implemented several steps in response to our recommendation, including increased training for staff and compliance audits to improve the consistency of these decisions.

This case occurred prior to Tarion’s implementation of Builder Bulletin 20 (Chargeable Conciliations). We are hopeful that this document will improve the consistency of these decisions, and inform builders of their obligations with respect to chargeable conciliations.

**Case Study #4: Late Request for Conciliation**

Mr. S contacted the Ombudsperson Office to complain that Tarion refused to schedule a conciliation inspection for his 30-Day case, and was forcing him to appeal to the Licence Appeal Tribunal. Mr. S stated that Tarion would not accept his request for conciliation because it was received late. Mr. S. felt this was unfair, because he had contacted Tarion during the time when he could request a conciliation, but was told to continue to work with the builder. The builder did not complete the repairs, and when Mr. S called back it was too late to request an inspection.



Mr. S had not attempted to resolve his complaint with Tarion prior to contacting our Office, so the Ombudsperson staff referred Mr. S to the Warranty Services department. The request was reviewed, and determined that when he called back, it was too late to schedule a conciliation inspection because it was two weeks past the timeframe to make the request. Mr. S. was advised to put any outstanding issues on his Year-End Form. He was also offered a Decision Letter which would provide him with the opportunity to appeal the decision to LAT.

Mr. S came back to the Ombudsperson Office. We reviewed the case, and determined that it was clear that Mr. S had called Tarion within the appropriate time period to request a conciliation. It was also clear from the notes made by Tarion staff during the call that he had the intent of requesting a conciliation during the first phone call. We determined that although it was appropriate for Tarion to encourage the parties to work together for the full repair period, the conciliation should have been scheduled when he first called. We raised these concerns with the Warranty Services department, and they agreed to accept the request for conciliation.

**Case Study #5: No Response from Tarion Regarding Fee Refund**

Mrs. Q contacted the Ombudsperson Office requesting assistance in receiving a conciliation fee refund. The homeowner complained that she had not received a refund of the fee, and that Tarion had not responded to her requests for assistance.

In order to schedule a conciliation inspection, homeowners must pay a conciliation fee at the time of the inspection request. If Tarion finds that there are warranted items, then the fee is refunded to the homeowner. In this case, Tarion had conducted a conciliation inspection 9 months earlier. Several items in the home were warranted, and the builder had completed all the necessary repairs. However, the homeowner stated that she had not received the fee refund from Tarion.

The homeowner also indicated that she had made several attempts to ask the Warranty Services manager for assistance in resolving the issue, but had not received a response. Tarion's non-responsiveness changed a relatively straight-forward inquiry into a complaint to the Ombudsperson Office.

The Ombudsperson Office accessed the homeowners file. It appeared that the fee had been refunded, but we wanted to confirm the payment information. We contacted the Warranty Services department, and the coordinator was able to confirm that the refund had been issued to Mrs. Q's credit card following the inspection. We then provided the information regarding the date and method of refund to the homeowner. Mrs. Q. confirmed that she had received the refund, and thanked us for the assistance and response to her concerns.





## RECOMMENDATIONS

The mandate for the Ombudsperson includes resolving individual complaints, and addressing systemic issues based on themes identified in resolving complaints. This section of the report deals with recommendations. A recommendation 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.

During 2013, we made 37 case specific recommendations. In cases where the Ombudsperson makes case specific recommendations, we work with Tarion to ensure there is understanding and agreement in implementing the recommendations. After we make the recommendation, we monitor implementation. We are pleased to report that Tarion agreed to implement all of our case specific recommendations in 2013.

The Ombudsperson Office is in regular communication with Tarion regarding the implementation of our recommendations. During 2013 Tarion met the commitments made to address recommendations made in the 2012 Annual Report. I was satisfied that Tarion met its commitments within the first half of the year. The 2013 Annual Report contains four systemic recommendations.

### **CRM Documentation and Case Handover**

**Recommendation 1: Tarion should establish and monitor documentation standards for its Customer Relationship Management (CRM) system, and develop a clear process for case handovers.**

The Ombudsperson has identified inconsistencies in how Tarion records and shares case-related communications. This includes cases where all the relevant information is not recorded in the file, or cases where the file is assigned to a different representative, but he/she is not aware of the reasons for the re-assignment or re-inspection.

Therefore, we recommend that Tarion establishes and monitors CRM documentation standards and a clear process for case handovers. Tarion should

develop a consistent process to ensure that when different Warranty Services Representatives or Warranty Services Coordinators are assigned to a case (or different cases for the same home) the new Warranty Services Representative or Coordinator is up to date on all aspects of the file. This would include standards for documenting emails, phone calls, and any documents related to a file or case by Tarion staff.

### **Root Cause Analysis**

**Recommendation 2: Tarion should develop a process to identify, report and learn from opportunities for improvement.**

Tarion should develop an effective system to identify, report and learn from opportunities for improvement. In the 2010 Annual Report I noted that “Tarion is effective at responding to complex technical problems, and individual homeowner complaints. I am concerned that the innovations, and learning from how individual employees have been able to successfully resolve errors, or respond to a concerns are being lost because Tarion does not have an effective process to share lessons from how cases are handled.”

Tarion continues to resolve complaints and complex warranty issues, but does not have an effective mechanism to debrief and identify the root cause of problems, and to identify opportunities for learning and process improvement. Tarion should have a mechanism to identify the causes of problems and initiate changes to prevent the same concerns from recurring. In cases where different departments interact with a file, there should be a cross-departmental debrief process.

### **Incidental Costs Incurred During a Repair**

**Recommendation 3: Tarion should create clear guidelines for appropriate compensation of living and incidental expenses incurred during repairs.**

The Ombudsperson has identified inconsistencies in how Tarion compensates homeowners for expenses incurred if a homeowner cannot use all, or a portion

of their home during repairs. Tarion does not have a standard process for assessing incidental or living costs incurred during a repair. Compensation for living or incidental costs is determined on a case-by-case basis, but without clear guidelines, and as a result there can be significant variations in approach. In one case, two elderly homeowners were required to hire movers at their own expense in order to clear space to repair their hardwood flooring. The homeowners incurred significant cost through no fault of their own. In other cases, Tarion paid for moving and storage.

### **Best Practices for Determining Eligibility of a Home**

#### **Recommendation 4: The Ombudsperson recommends that Tarion revise the process to determine if a home is eligible for warranty.**

The Ombudsperson has identified several concerns with the fairness of how Tarion determines if a home is eligible for warranty. The Ontario New Homes Warranties Plan Act outlines specific criteria for what type of home is eligible for warranty coverage. We have received numerous complaints from homeowners who were disappointed to learn that Tarion had determined that their home was not eligible for warranty coverage.

In analysing these cases we have observed several issues with the process used to determine if a home is eligible for warranty. We have concerns with the process used to make the decisions, the consistency and accuracy of decisions being made, and the responsibility for decisions being made. In some of these circumstances, the decision was made part way through the warranty process; in other cases the homeowners did not know there was any question regarding eligibility, but were informed that their homes would not have any warranty coverage in a Decision Letter. Additionally, the process does not appear to have an effective means of determining if a decision on a particular home establishes a precedent, nor are the decisions consistent. We are also concerned that Tarion enrolls homes for warranty coverage without screening to determine if they meet the basis criteria for an eligible home. Tarion

should revise its practices related to eligibility of homes to ensure that it is conducted in a fair manner.

## CONCLUSION

2013 was the fifth year of operation for the Tarion Ombudsperson. Since the Office was established we have received over 1,500 complaints and inquiries. The fifth anniversary also offers an opportunity for reflection. The role of the Ombudsperson extends beyond resolving individual complaints, and toward promoting fair practices across Tarion. In the five years that the Ombudsperson Office has been in place, Tarion has committed to providing exceptional service to stakeholders. These changes have had a direct impact on the nature of complaints we receive, and made it easier for us to promote fair processes within Tarion. While this report identifies areas for improvement, we must also understand the overall context in which the Office operates, and the improvements that have taken place in recent years. 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 look forward to continuing to work collaboratively to resolve complaints, and promote fair practices in the future.

# MANAGEMENT RESPONSE



We're pleased to respond to a number of Tarion Ombudsperson recommendations which we agree will improve stakeholder satisfaction and fairness.

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 following recommendations made in the 2013 Ombudsperson Annual Report:

1. Tarion should establish and monitor customer relationship management software systems ("CRM") documentation standards and a clear process for case handovers.

The Ombudsperson has identified inconsistencies in how Tarion records and shares case-related communications and has recommended that:

- Tarion establish and monitor CRM documentation standards and a clear process for case handovers.
- Tarion should develop a consistent process to ensure that when different Warranty Service Representatives ("WSR") or Warranty Service Coordinators ("WSC") are assigned to a case (or different cases for the same home) the new WSR/WSC is up-to-date on all aspects of the file.

Tarion management agrees that better processes in these situations will provide for better outcomes and more stakeholder satisfaction. Accordingly:

- The Warranty Services department will, by the end of March 2014, review existing document and communication storage processes and determine how the flow of file is tracked and, by the end of June 2014, create a policy/module on how to capture information in CRM consistently going forward.
- Tarion staff will be trained on the new policy/module by the end of September 2014.

2. Tarion should develop a process to identify, report, and learn from opportunities for improvement.

The Ombudsperson believes that Tarion needs to develop an effective system to identify, report and

learn from opportunities for improvement. In the 2010 Annual Report he noted that "Tarion is effective at responding to complex technical problems, and individual homeowner complaints. I am concerned that the innovations, and learning from how individual employees have been able to successfully resolve errors, or respond to a concerns are being lost because Tarion does not have an effective process to share lessons from how cases are handled."

The Ombudsperson has observed that Tarion should have a mechanism to identify the causes of problems and initiate changes to prevent the same concerns from recurring. In cases such as this, where different departments interact with a file, he has recommended that there be a cross-departmental debrief process. Tarion management wants to improve on Tarion's ability to learn from opportunities for improvement.

Currently, Tarion has a process where "learnings" are collected throughout the year and at year end reviewed. If changes are required they are proposed and adopted into future cases.

In response to the Ombudsperson recommendation, effective immediately, a formal process will be introduced where managers will review complex cases with their team members and other affected Tarion staff and bring the experiences/learnings to the managers' monthly meetings. The learnings will then be captured and reviewed to determine if policy changes and/or further training are required and make the adjustments.

Tarion is committed to being a learning organization. Tarion by statute is required to adjudicate and resolve disputes between homeowners and their builders. The nature of these disputes has over time become more and more complex. While Tarion is effective at responding as an organization it can focus on becoming a better organization by using what it learns from management of complicated issues to better serve future stakeholders. This needs to be accomplished through a systemic approach to sharing relevant information and data with those most responsible in making front line decisions.



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# MANAGEMENT

## RESPONSE (continued)

3. Tarion should create clear guidelines for appropriate compensation of living and incidental expenses during repairs.

The Ombudsperson Office has identified inconsistencies in how Tarion compensates homeowners for expenses incurred if a homeowner cannot use all, or a portion of their home during repairs. Tarion does not have a standard process for assessing incidental or living costs incurred during a repair. Compensation for living or incidental costs is determined on a case-by-case basis, but without clear guidelines, and as a result there can be significant variations in approach. Management will create a committee with resources from the Legal and Warranty Services departments which will review, within the limitations of Tarion's governing legislation, current and past practices in this area. This Committee will report to senior management, with recommendations, by the end of June 2014.

4. The Ombudsperson Recommends that Tarion Revise the Process to Determine if a Home is Eligible for Warranty.

The Ombudsperson has identified several concerns with the fairness of how Tarion determines if a home is eligible for Warranty. In analyzing cases the Ombudsperson has observed several issues with the process used to determine if a home is eligible for warranty:

- There are concerns with the process used to make the decisions, the consistency and accuracy of decisions being made, and the responsibility for decisions being made. In some of these circumstances, the decision was made part way through the warranty process; in other cases the homeowners did not know there was any question regarding eligibility, but were informed that their homes would not have any warranty coverage in a Decision Letter.

- Additionally, the process does not appear to have an effective means of determining if a decision on a particular home establishes a precedent, nor are the decisions consistent.

- Finally, there are concerns that Tarion enrolls homes for warranty coverage without screening to determine if they meet the basis criteria for an eligible home.

Management is working to improve this process. Accordingly:

- Effective immediately, Tarion's internal "Eligibility Committee" is being expanded to include senior members from the Warranty Services and Licencing and Underwriting departments.
- By the end of June 2014, this reconstituted committee will review the current practices and propose and initiate recommendations including:
  - Reviewing the process for consistency and ensuring homeowners are properly notified (with reasons) if their home is not entitled to coverage.
  - Reviewing home enrolment forms to make sure the right questions are being asked to help screen for homes that shouldn't be entitled to coverage.

Howard Bogach

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Tarion Warranty Corporation