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Condo Act doesn't need major revamp

In June, the McGuinty government announced a public consultation process to “modernize” the 1998 Condominium Act to meet the needs of owners, residents and other stakeholders in the rapidly-evolving industry.

The announcement came on the heels of repeated attempts by NDP MPP Rosario Marchese to introduce his badly-flawed Bill 72, the Property Owners’ Protection Act, 2012.

In an interview last month with the Toronto Star’s [NewInHomes.com](#), Marchese provided some background on why he introduced the new legislation and his goals for the act.

He explained that he created the concept of a condo review board tribunal to protect consumers against “shoddy construction.” I may be missing something here, but Ontario already has a superb program in place which gives consumers the best warranty protection in the country. Why waste time reinventing the wheel?

Since 1976, the Tarion Warranty Corp. ([tarion.com](#)) has operated under the authority of the Ontario New Homes Warranty Plan Act. As a past board member and current chair of its consumer advisory panel, I believe Tarion is working well to protect consumers. It has a multi-million dollar warranty fund, and its annual consumer surveys indicate a very high degree of approval by new homebuyers.

Without any meaningful consultation with Tarion about its cost or operational implications, Marchese would superimpose a review board or tribunal on top of the existing warranty program. Given overlapping functions, how the two could possibly work together completely escapes me.

Marchese also proposes to expand the Tarion warranty coverage to include condominiums converted from previous uses such as a factory or a church. While this is indeed a laudable goal, no thought appears to have been given to the cost implications of extending coverage to building conversions, and the impact on the warranty fund of providing this protection.

At present, Tarion has a three-stage warranty for one, two and seven years depending on the nature of the warranted item. Again, without consideration of costs or implementation complexities, Bill 72 proposes to extend much of the one-year warranty to five years. Consumers, of course, would be stuck with the anticipated costs at the time of purchase.

In May, Marchese told CBC News; “The fact of the matter is that the Condominium Act doesn’t have any consumer protection whatsoever.” Those of us who work with the legislation on a daily basis know this is simply not true. To say this demonstrates a complete misunderstanding of how well it really does work.

There is a significant difference between the Condominium Act and the Ontario Building Code, and no matter how much Marchese wants to change the condo legislation, construction issues fall under the Building Code and the Tarion legislation, not the Condominium Act.

In his proposals, Marchese wants to “update sound insulation and noise protection standards to ensure a more peaceful, quieter living environment.” But this clearly is a building code matter and not an issue for the Condominium Act.

Under the current Condominium Act, builders are responsible to buyers for any shortfall in their marketing budgets for a period of one year after a building is registered. Marchese proposes to extend this to three years without any explanation of how builders could possibly predict operational costs and utility charges so far into the future. Buyers would inevitably pay for the shortfall one way or another.

Rather than a blanket reform of a law which is, after all, only 11 years old, I am hopeful that the government review of the act will result in some minor tweaks so that court interpretations in disputed cases will be more consistent.

I also look forward to changes in the areas of condominium manager accreditation, better consumer protection for buyers at the time of purchase, clearer rules for managing finances and reserve funds, and improved procedures for transparent governance of condominium boards.

But the McGuinty government has it right; it is crucial to have a broad consultation with all the stakeholders first.

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