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# Navigating Tarion & Warranty Protections for Condominium Common Elements

In Ontario, every new residential condominium built and sold comes with a seven-year warranty that starts on the condominium corporation's registration date.

For that reason, it is important for you as a condominium manager to be aware of the age of your condominium, as certain warranties and protection may still apply to the common elements.

Warranty coverage is limited and specific to the first, second, and seven-year anniversaries following the date of registration. It is important to remember that the warranty is the vendor/builder's warranty, and Tarion's role is to ensure that buyers of new homes and condominiums receive the coverage they are entitled to under their vendor/builder's warranty.

While condo managers are typically hired by the condominium's owner-elected

board of directors, sometimes the condominium manager is initially retained by the builder and stays on after the turnover of the common elements to the board of directors. Regardless of your situation, it is critical for you as a condo manager to understand the unit and common element boundaries and be familiar with the Tarion process to ensure you are providing the best service to your employer.

### The Warranty Process

Tarion relies on the registered declaration when determining unit and common element boundary disputes. Ownership and maintenance for heating, plumbing, electrical systems, elevators, and amenity areas may be similar for both new and old condominiums. Still, condominium managers must be aware of these components' ownership structure and ensure

that regular maintenance is completed to protect them. You should also be aware that, while a unit owner may be responsible for maintenance of an exclusive use balcony or replacement of HVAC filters, sometimes the declaration will stipulate, or a by-law may have been passed, that the condominium corporation is responsible for maintenance even though the unit owner owns HVAC components.

Each condominium project is assigned to a Warranty Services Coordinator and a Warranty Services Representative. Once Tarion receives a registered or amended declaration, they will attempt to reach out to the condominium corporation representative to determine whom the condominium corporation has appointed as a designate responsible for Tarion-related matters. Common element claims must be submitted to Tarion within the





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applicable warranty period based on the registration date or the amended declaration date for phased condominium projects. Once the issue has been brought forward to Tarion as a claim, Tarion may need to review the declaration or condominium by-laws to determine whether the issue is covered within the unit or the common element warranty.

To help you as a condo manager, Tarion offers presentations to condominium corporation representatives on the warranty process and critical things to look out for when handling concerns related to common elements. These often include the condominium manager, performance auditors, and board members.

### The Performance Audit

A performance auditor should be hired no sooner than six months after registration of the condominium corporation so that they can complete and submit a Performance Audit to Tarion before the end of the first year of warranty coverage (i.e., the first anniversary date after registration). If a condominium project was built in phases, then a separate Performance Audit must be completed

for each portion of the phased condominium corporation in accordance with their amended registration dates.

Performance audits are to be submitted to Tarion with a Performance Audit Tracking Summary (PATs). A performance audit can be submitted to [commonelements@tarion.com](mailto:commonelements@tarion.com) or through the condominium corporation's MyHome account, an online portal that allows unit owners and corporations to manage their warranties online. Condominium corporations can use MyHome to submit warranty forms, send Tarion documents, receive updates about the warranty, receive email alerts about important warranty deadlines, and manage the Performance Audit Tracking Summary (CE PATs).

The builder repair period is 18 months, starting from the first anniversary of the condominium corporation registration date. While in the builder repair period, a second-year performance audit may be submitted before the second anniversary of the condominium corporation's registration date. The vendor/builder would then have the balance of the repair period to complete the additional items added

by the second-year performance audit. During the builder repair period, Tarion may recommend that common element meetings be completed to ensure that all parties are communicating and that repairs are completed in a timely manner.

### Conciliation Inspection

If you or the condominium corporation do not feel that the builder has addressed the issues after the repair period has ended, you can ask Tarion for assistance and a conciliation inspection by submitting a Request for Conciliation form. There is a 60-day window to submit this form, which should only include the outstanding and unresolved items from the first- and second-year performance audits.

As a condo manager, please be aware that if a form is not received, Tarion will consider all reported items from the first- and second-year performance audit to be resolved, and the claim will be considered resolved.

Should a request for conciliation be made by the condominium corporation, a fee will be collected, a conciliation inspection will be scheduled, and the vendor/builder will receive a final 90-day builder repair period to address the items prior to the conciliation inspection being conducted. Once conciliation has been requested, Tarion would recommend a common element meeting should take place if one has not already happened.

### Find Out More

We encourage you to review the new Tarion.com section for Condominium Corporations and their designates for more information regarding the common element claims process and how to ensure your condo's common elements get the protection they are entitled to. If you have any questions, please send them to [commonelements@tarion.com](mailto:commonelements@tarion.com). ■

**Ryan Haley** has been with Tarion for 15 years and has experience in both Freehold and Condominium claims resolution. He is currently the Director of Common Elements. The Common Element team works closely with condominium corporations, vendors and builders, consultants, condominium managers and other parties to help give condominium buyers consumer protection and confidence that their condominiums are properly built. [Tarion.com](http://Tarion.com)

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