

Deputation Material: TOBM May 13th 2019.

Adam Kulakowsky and Allison Kulakowsky

The purpose of this deputation is to address issues with the TOBM at large, and the Building Department specifically. We are calling into question the manner in which building inspections are/were performed, the manner in which the Ontario Building Code, "OBC", is enforced and monitored, and in the event of disputes, the process for resolving disputes with transparency and ethical practices. It has been our experience that the TOBM is grossly deficient and negligent in these areas, and as a result, have caused my family, and possibly others, significant financial loss and emotional distress. It is our hope that by shedding light on our situation and sharing with this council, that we will be acknowledged fairly and justly, and that others may avoid situations such as this in the future.

My family and I reside at [REDACTED] George McRae Rd. in Clarksburg TOBM. We have been residing at that address for nearly 2 years since endeavoring to build a custom home on a lot we purchased approx. 3 years ago. To say that we have had issues with our home and the process would be a gross understatement. Our builder is no longer permitted to build in Ontario as Tarion Home Warranty Cooperation has revoked his license, declaring him "unwilling and unable" to meet his warranty obligations to us. While we were aware during the course of construction that problems were arising with our home build, we took great solace in the fact that inspections were being performed, and that TOBM and their building officials passed all aspects of our home and granted us occupancy almost 2 years ago. Immediately upon moving into our home, we were alarmed at the number of easily noticeable health and safety issues present in addition to obvious construction deficiencies. (**See attached Tarion document outlining initial issues upon occupancy**) None of these items were noted by the TOBM building dept. and they asserted, in direct contradiction to the Tarion findings, as well as our own observations, that our home was fit for occupancy. (**See TOBM inspection report –Occupancy**) We immediately called Tarion and began the lengthy process of uncovering exactly what else had gone wrong with our home.

After addressing several readily discoverable issues, as well as the health and safety concerns, we began, over the course of several months, to notice numerous deficiencies and issues with our home. I will limit my explanation of these numerous issues to a small selection, which we feel, are in direct contradiction with passed TOBM inspections. Our issues and deficiencies have been so numerous that our Tarion warranty limit has been reached (300k) and exceeded by over \$70,000. Our home has undergone extensive remediation work and has had a full engineers audit performed by Croziers Engineering at the direction of Tarion. This investigation report, which is attached, outlines the countless OBC violations which, went unnoticed by the TOBM building dept. (over 29 specific violations-see report)

- 1.) Our first issue is with the structural steel posts which exist at the back of our home. As evidenced by the TOBM inspection Report, (see below) it is stated that the steel structure is in compliance. We observed that our columns were un-secured to inadequate footings, and were out of plumb a considerable amount. Tarion inspected this concern and secured "Stephenson Engineering to perform an inspection of this area. Their findings are attached. At a later date, more issues were discovered by Croziers Engineering which asserted that numerous other issues

were present with this structure, (bent tabs, poorly fastened bolts etc.) Why was this passed and not noticed by our inspector?

Permit No: PRDW20160000782

Location: [REDACTED] GEORGE MCCRAE RD

Requested Inspection: Framing Inspection

Date Requested:01/20/2017

Date Completed:01/25/2017

Inspection Result: Passed

Comments:

[REDACTED] Contractor on site at time of inspection. In combination with "Plumbing" ABG inspection. Pre-engineered plans for trusses & floor system provided. Review of these building elements confirmed that installed as per design details. Framing of exterior/interior walls, roof, lintels, point loads, beams, blocking, subflooring, steel columns in compliance.

Work to continue with next inspection "Insulation" to be scheduled when ready.

Inspector: [REDACTED]

Please contact the Town's Building Division at (519) 599-3131 ext. 239 or toll free 1-888-258-6867 to schedule your next required inspection and please allow 48 hours' notice for the requested inspections.

Furthermore, countless other structural issues were uncovered with our home that are in direct contradiction with this "passed " inspection report. Our main issues concern the beam not present in our living room which was discovered by us after noticing drywall shearing and deflection, as well as the inadequate "Tall Wall" construction which was also uncovered due to drywall buckling and deflections (see report) Again, we ask the obvious question. Why was none of this identified during the course of the framing inspection?

- 2.) The second issue we would like addressed is the issue of our foundation. Our approved drawings specified that we have a "water proofing system" around our foundation. After countless floods, it was uncovered that our foundation had several cracks, an improperly done weeping system, and most importantly, inadequate "damp proofing" and not water proofing of any kind. After a re-excavation of our entire home, it was discovered that little to no clean fill was used, and that inadequate amounts of drainage stone was used. Again, how was this aspect of our home passed?

I could go on and continue to identify the countless discrepancies and examples of negligence that exist, but for the purpose of this deputation and the inherent time constraints it places, I will conclude by asking the council to consider the following issues and review the detailed paperwork which I have again provided.

We have attempted for over a year to receive a clear and straightforward explanation as to how this happened without one OBC violation being noticed during the course of inspections which we paid for. We have not received any clarification or explanation as to why this occurred. We have gone through all proper parameters the TOBM has put fourth, and after countless meetings, emails exchanged with a

revolving door of building officials, we have been told, in no uncertain terms, that we should have kept a closer eye on the building of our home, and that the TOBM is not responsible in any way shape or form. The mayor spoke personally with our Tarion manager and articulated in our final meeting with the CAO present, that Tarion stated our home was “one of the worst they had seen.” Despite that assertion, and the overwhelming evidence we provided, we were told by the CAO that the TOBM insurance provider, whom made a decision 6 months earlier based on information we were not privy to, was the decision they were sticking with. Again, we have no idea what documents or evidence the insurers were provided with, and were told once more that any future attempts to hold the TOBM responsible would be met with “rigorous defense”. Hardly transparent and ethical behavior. Also, a convenient position to take when you have tax payer funds at your disposal.

We have been left in a position of serious financial loss, not to mention the great stress this has placed on my family. We have had to move in and out of our “occupancy ready” home several times for weeks on end as we “uncovered” more and more issues. We feel very strongly that had some of these OBC violations been identified in a timely fashion, we would have been able to mitigate some of the damage done and pro-actively deal with our builder. We were not afforded this chance. Furthermore, we paid for services that were not rendered, and are seemingly left with little choice but to pursue costly litigation options against our own town, as well as notify the media with regards to what is occurring in our municipality. We had no desire to take this approach, and believe that access to justice should not be a “pay to play” system.

In summation, we implore the council to review and consider our reasonable requests for the following.

- i) Financial compensation for issues the TOBM had the expressed opportunity to inspect, identify and order rectification of under OBC authority.
- ii) Clarification as to what, if any action is being taken against the builder who violated OBC so grossly.
- iii) What measures will the TOBM employ to avoid these situations moving forward?
- iv) What is the TOBM Building Dept. responsible for and what should a citizen expect when paying Development Charges, permit fees and inspection fees?

Thank you for your time.

Adam and Allison Kulakowsky