

District of Ontario
Division No. 09 – Toronto
Court File No. 31-2989954
Estate No. 31-2989954

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 27TH
)
JUSTICE BLACK) DAY OF FEBRUARY, 2025

IN THE MATTER OF THE BANKRUPTCY OF
STATEVIEW HOMES (ON THE MARK) INC.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

ORDER
(Lifting Stay of Proceedings)

THIS MOTION, made by Tarion Warranty Corporation (“**Tarion**”), creditor of the bankrupt, Stateview Homes (On The Mark) Inc. (the “**Bankrupt**”), for an Order under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) lifting the stay of proceedings under section 69.3(1) of the BIA, was heard this day by judicial videoconference in Toronto, Ontario;

ON READING the notice of motion of Tarion dated February 20, 2025 (the “**Notice of Motion**”), filed, and the motion record of Tarion dated February 20, 2025 (the “**Motion Record**”), filed;

ON HEARING the submissions of counsel for Tarion, KSV Restructuring Inc., in its capacity as the trustee of the Bankrupt (in such capacity, the “**Trustee**”), and those other parties

listed on the counsel slip, no one else appearing although duly served as appears from the affidavit of service sworn February 20, 2025, filed,

1. **THIS COURT ORDERS** that the stay of proceedings established by section 69.3(1) of the BIA is hereby lifted for the sole purpose of issuing and serving the Statements of Claim (as defined below) and leave is hereby granted to Tarion to issue and serve actions (together, the “**Actions**”) as against the Bankrupt in the forms attached as Schedules “A” and “B” hereto (together, the “**Statements of Claim**”).

2. **THIS COURT ORDERS** that Tarion shall serve a copy of this Order on all the parties including the Trustee via email and file this Order with the Superintendent of Bankruptcy, and that service so effected is valid immediately upon transmission.

3. **THIS COURT ORDERS** that, subject to further Order of this Court, the Trustee shall not be required to participate in or defend any of the claims or counterclaims made by Tarion in the Action against the Bankrupt and the other defendants to the Action, or to incur any costs in respect of the Action, nor be subject to discovery or production in the Action, nor shall any costs be awarded in the action against the Trustee or the bankruptcy estate of the Bankrupt.

4. **THIS COURT ORDERS** that there shall be no enforcement of any judgement obtained by Tarion against the Bankrupt in the Action without further leave of this Court.

5. **THIS COURT ORDERS** that no further steps will be taken as against the Bankrupt in the Action or otherwise without the consent of the Trustee or further order of this Court obtained on reasonable notice to the Trustee.

6. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record are hereby abridged and service on any person other than those served is hereby dispensed.

7. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date hereof without the need for entry or filing.

Date of issuance
(to be completed by registrar)



Justice Black

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SCHEDULE "A"

Statement of Claim (Deposit Claims)

See attached.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

(Court Seal)

TARION WARRANTY CORPORATION

Plaintiff

- and -

STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (NAO TOWNS II) INC., HIGHVIEW BUILDING CORP INC., STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (HIGH CROWN ESTATES) INC., STATEVIEW HOMES (ON THE MARK) INC., STATEVIEW HOMES (BEA TOWNS) INC., STATEVIEW HOMES (ELM&CO) INC., STATEVIEW HOMES (HAMPTON HEIGHTS) INC., TLSFD TAURASI HOLDINGS CORP., STATEVIEW CONSTRUCTION LTD., STATEVIEW HOMES (EDGE TOWNS) INC., STATEVIEW HOMES (S COLLECTION) INC., STATEVIEW HOMES (MAIN & CO.) INC., STATEVIEW HOMES (OOH LALA TOWNS) INC., STATEVIEW HOMES (KINGS LANDING) INC., STATEVIEW HOMES (RIALTO TOWNS) INC., STATEVIEW HOMES (IVORY OAK ESTATES) INC., STATEVIEW HOMES (ELIA COLLECTION) INC., STATEVIEW HOMES (QUEEN'S COURT) INC., STATEVIEW HOMES (ASHBURN HEIGHTS) INC., STATEVIEW HOMES (BALDWIN HEIGHTS) INC., STATEVIEW HOMES (BONAVENTURE) INC., STATEVIEW HOMES (KINGS LANDING PHASE II) INC., STATEVIEW HOMES (TESORO COLLECTION) INC., LIVE INSPIRED ORGANIZATION, LUXVIEW FINE HOMES CORPORATION, NORTHGATE FINE HOMES INC., TAURA DEVELOPMENTS INC., CARLO TAURASI, DINO TAURASI, DANIEL CICCONE, MELISSA TAURASI, NELDA TAURASI, STEPHANIE LYNN CONSOLE and JOHN DOE

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve

it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto ON M5G 1R7

TO: StateView Homes (Nao Towns) Inc.

AND TO: StateView Homes (Nao Towns II) Inc.

AND TO: Highview Building Corp Inc.

AND TO: StateView Homes (Minu Towns) Inc.

AND TO: StateView Homes (High Crown Estates) Inc.

AND TO: StateView Homes (On The Mark) Inc.

AND TO: StateView Homes (Bea Towns) Inc.

AND TO: StateView Homes (Elm&Co) Inc.

AND TO: StateView Homes (Hampton Heights) Inc.

AND TO: TLSFD Taurasi Holdings Corp.

AND TO: StateView Construction Ltd.

AND TO: StateView Homes (Edge Towns) Inc.

AND TO: StateView Homes (S Collection) Inc.

AND TO: StateView Homes (Main & Co.) Inc.

AND TO: StateView Homes (Ooh LaLa Towns) Inc.

AND TO: StateView Homes (Kings Landing) Inc.

AND TO: StateView Homes (Rialto Towns) Inc.

AND TO: StateView Homes (Ivory Oak Estates) Inc.

AND TO: StateView Homes (Elia Collection) Inc.

AND TO: StateView Homes (Queen's Court) Inc.

AND TO: StateView Homes (Ashburn Heights) Inc.

AND TO: StateView Homes (Baldwin Heights) Inc.

AND TO: StateView Homes (Bonaventure) Inc.

AND TO: StateView Homes (Kings Landing Phase II) Inc.

AND TO: StateView Homes (Tesoro Collection) Inc.

AND TO: Live Inspired Organization

AND TO: Luxview Fine Homes Corporation

AND TO: Northgate Fine Homes Inc.

AND TO: Taura Developments Inc.

AND TO: Carlo Taurasi

AND TO: Dino Taurasi

AND TO: Daniel Ciccone

AND TO: Melissa Taurasi

AND TO: Nelda Taurasi

AND TO: Stephanie Lynn Console

AND TO: John Doe

CLAIM

1. Tarion Warranty Corporation (“**Tarion**”) claims the following relief against the Defendants:

- (a) damages or compensation in an amount to be determined before trial and currently estimated at \$88,110,800, consisting of:
 - (i) \$74,400,000 paid or to be paid by Tarion to hundreds of purchasers of new homes (the “**Purchasers**”) who lost the deposits (the “**Deposits**”) they paid to the vendors of the homes (the “**StateView Vendors,**” as listed below);
 - (ii) from the StateView Vendors, \$12,610,800, (including HST) reflecting the prescribed administration fee of 15% of amounts paid to Purchasers, as provided for in the VB Agreements and the ONHWP Act (each as defined below); and
 - (iii) from the StateView Vendors, \$1,100,000 in chargeable conciliation fees associated with Purchaser compensation claims made to Tarion.
- (b) a declaration that some or all of the Deposit Proceeds (as defined below) are trust funds under an Addendum Trust (as defined below) and/or are subject to a constructive trust;
- (c) an order directing payment of the trust funds to Tarion;
- (d) an order tracing the Deposit Proceeds;
- (e) an order for an accounting of the Deposit Proceeds;

- (f) in the case of the StateView Vendors, prejudgment and post judgment interest at the prescribed rate of 18% per annum as provided for in the VB Agreements, and the *ONHWP Act*;
- (g) in the case of the other Defendants (and, in the case of the StateView Vendors, in the alternative):
 - (i) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (ii) post judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (h) Tarion's legal costs on a full indemnity basis, including applicable taxes and administration fee; and
- (i) such further and other relief as the Court may deem just.

Overview of the Claim

2. The StateView Vendors entered into agreements of purchase and sale (the "**Purchase Agreements**") with the Purchasers for hundreds of homes in Ontario, and took Deposits from the Purchasers. The StateView Vendors never transferred title to the homes to the Purchasers. They failed to return the Deposits.

3. Tarion is the non-profit corporation charged with administering Ontario's new home warranty program under the *Ontario New Home Warranties Plan Act* (the "**ONHWP Act**"). The *ONHWP Act* is consumer protection legislation designed to protect purchasers and owners of new homes.

4. The *ONHWP Act* provides deposit protection. Under Section 14 of the *ONHWP Act*, a purchaser of a new home is entitled to compensation from Tarion for their lost deposit, if the purchaser has a cause of action against the vendor resulting from the fact that title to the home has not been transferred to the person because the vendor has gone into bankruptcy, or the vendor has fundamentally breached the contract.

5. The Purchasers made compensation claims to Tarion for their lost Deposits. Tarion has compensated the Purchasers (or will do so) pursuant to its statutory consumer protection mandate. Tarion seeks to collect these funds, both directly and through Tarion's rights of subrogation under the *ONHWP Act*, from: (i) the StateView Vendors, (ii) the directors, officers and shareholders of the StateView Vendors (the "**StateView Principals**," as listed below), and (iii) parties who received the Deposits (or Deposit Proceeds) that ought to have been refunded to the Purchasers (the "**Deposit Recipients**," as listed below).

The Defendants

6. The StateView Vendors: The StateView Vendors consist of the following companies, all of which are incorporated pursuant to the laws of Ontario:

- (a) StateView Homes (Nao Towns) Inc.
- (b) StateView Homes (Nao Towns II) Inc.
- (c) Highview Building Corp Inc.
- (d) StateView Homes (Minu Towns) Inc.
- (e) StateView Homes (High Crown Estates) Inc.

- (f) StateView Homes (On The Mark) Inc.
- (g) StateView Homes (Bea Towns) Inc.
- (h) StateView Homes (Elm&Co) Inc.
- (i) StateView Homes (Hampton Heights) Inc.
- (j) StateView Construction Ltd.
- (k) StateView Homes (Edge Towns) Inc.
- (l) StateView Homes (Main & Co.) Inc.
- (m) StateView Homes (Kings Landing) Inc.
- (n) StateView Homes (Elia Collection) Inc.
- (o) StateView Homes (Queen's Court) Inc.

7. With three possible exceptions, all StateView Vendors executed a Vendor Agreement, a Builder Agreement and/or a Vendor and Builder Agreement (each a “**VB Agreement**”) with Tarion in Tarion’s standard form. Any StateView Vendor that did not execute a VB Agreement breached its obligation under the *ONHWP Act* and its regulations to execute a VB Agreement.

8. The StateView Principals: The StateView Principals consist of the following individuals, all resident in Ontario, who were the officers, directors and shareholders of the StateView Vendors at the relevant times:

- (a) Carlo Taurasi (“**Carlo**”),
- (b) Dino Taurasi (“**Dino**”), and

(c) Daniel Ciccone (“**Daniel**”).

9. The Deposit Recipients: The Deposits that the StateView Vendors wrongfully failed to refund to the Purchasers, and monies derived from the original deposits (collectively the “**Deposit Proceeds**”), were transferred to and received by one or more of the following:

(a) The spouses of the StateView Principals (the “**StateView Spouses**”):

- (i) Melissa Taurasi (“**Melissa**”), an individual residing in Ontario and Carlo’s spouse.
- (ii) Nelda Taurasi (“**Nelda**”), an individual residing in Ontario and Dino’s spouse.
- (iii) Stephanie Lynn Console (“**Stephanie**”), an individual residing in Ontario and Daniel’s spouse.

(b) The following companies (the “**StateView Affiliates**”):

- (i) StateView Homes (Nao Towns II) Inc.
- (ii) TLSFD Taurasi Holdings Corp.
- (iii) StateView Homes (S Collection) Inc.
- (iv) StateView Homes (Ooh LaLa Towns) Inc.
- (v) StateView Homes (Rialto Towns) Inc.
- (vi) StateView Homes (Ivory Oak Estates) Inc.
- (vii) Luxview Fine Homes Corporation

- (viii) StateView Homes (Ashburn Heights)
 - (ix) StateView Homes (Baldwin Heights)
 - (x) StateView Homes (Bonaventure)
 - (xi) StateView Homes (Kings Landing Phase II)
 - (xii) StateView Homes (Tesoro Collection)
 - (xiii) Taura Developments Inc.
 - (xiv) Live Inspired Organization
 - (xv) Northgate Fine Homes Inc.
- (c) The StateView Vendors
- (d) The StateView Principals
- (e) John Doe, consisting of one or more persons, corporations or other entities whose identity is not yet known to Tarion, and who received Deposit Proceeds directly or indirectly from a StateView Vendor (excluding, for greater certainty, those defendants in Court File No. CV-24-00714494-00CL¹ in the Ontario Superior Court of Justice at Toronto who are not named defendants in this action).

¹ Court File No. CV-24-00714494-00CL is an action brought by Tarion which also seeks to recover damages relating to the Deposit Proceeds. If judgments are granted in both that action and this action, Tarion would not collect on the judgments in a manner that would result in double recovery.

Tarion's claims

A. Direct Claim against the StateView Vendors for breach of statutory obligations

10. At all material times, each StateView Vendor owed statutory obligations to Tarion under the General regulation under the *ONHWP Act*, O Reg 627/20 ("**Regulation 627**").

11. Regulation 627 requires each StateView Vendor to:
 - (a) indemnify Tarion fully for all losses and costs (including legal costs) that Tarion suffers by reason of the vendor's failure to perform obligations imposed under the *ONHWP Act* and under any agreement made with Tarion: Regulation 627, s 13(2);
 - (b) pay an administration fee (the "**Administration Fee**") to Tarion equal to 15% of any amount paid out of the statutory guarantee fund in payment of claims made in respect of the vendor: Regulation 627, s 14; and
 - (c) pay to Tarion interest at the rate of 18% per annum on all amounts that the vendor owes to Tarion: Regulation 627, s 15(1).

12. Each StateView Vendor breached its statutory obligations to Tarion by failing to:
 - (a) indemnify Tarion for amounts Tarion has paid to purchasers out of the statutory guarantee fund to compensate for Deposits improperly withheld by the StateView Vendors;
 - (b) pay Tarion the Administration Fee;
 - (c) pay Tarion 18% interest per year; and

(d) uphold its obligations under its agreements with Tarion, as set out below.

B. Subrogated claim against the StateView Vendors for breach of the Purchase Agreements

13. Beginning in or about 2021, the StateView Vendors entered into pre-construction Purchase Agreements with the Purchasers, to sell freehold homes in multiple real estate developments across the greater Toronto and surrounding areas in Ontario.
14. The StateView Vendors collected a Deposit from each Purchaser.
15. Each of the StateView Vendors has fundamentally breached each Purchase Agreement it entered into by, among other things, failing to construct and deliver a completed home to the Purchaser, failing to hold the Deposit in trust as required under the Tarion Addendum that formed part of each Purchase Agreement (as explained below), and failing to refund monies paid by the Purchaser to the StateView Vendor (including the Deposit) under the Purchase Agreements.
16. Some of the StateView Vendors have gone into bankruptcy.
17. Each Purchaser has a cause of action against their respective StateView Vendor resulting from the fact that title to the home was not transferred to the Purchaser.
18. As a result, subject to meeting applicable eligibility requirements under the *ONHWP Act* and its Regulations, each Purchaser is entitled, under Section 14 of the *ONHWP Act*, to compensation from Tarion for their lost Deposit.

19. Section 6 of Regulation 892 under the *ONHWP Act* (“**Regulation 892**”) provides that the maximum compensation amount payable by Tarion in respect of each home is \$100,000.

20. Tarion has paid eligible Purchasers up to this statutory maximum in accordance with its statutory duty.

21. To date, Tarion has received, assessed, and paid the claims of 937 Purchasers out of the guarantee fund under the *ONHWP Act*. Tarion anticipates that amount to increase. The total estimated Tarion payout on Deposit claims is \$74,400,000.

22. Section 13 of Regulation 892 provides that Tarion is subrogated to all rights of recovery of a person to whom payment in respect of a claim has been made out of the guarantee fund under the *ONHWP Act*. Tarion may maintain an action in its own name or in the name of the person, against any other person against whom the action lies in respect of such rights of recovery.

23. Pursuant to this right of subrogation, Tarion claims against the StateView Vendors, in respect of each Purchaser’s contractual claim against their StateView Vendor under their Purchase Agreement, for the StateView Vendor’s breach of the Purchase Agreement.

24. Tarion claims damages for breach of each Purchase Agreement, in the amount paid by Tarion to each Purchaser in respect of their Deposit, plus Tarion’s legal costs, as provided for in Section 13 of Regulation 892.

C. Subrogated claim against StateView Vendors for Breach of the Addendum Trust

25. Some or all of the Purchase Agreements were made conditional upon one or both of: (i) receipt by the StateView Vendor of confirmation that sales of homes in the real estate development exceeded a specified threshold by a specified date; and (ii) receipt by the StateView Vendor of confirmation that financing for the real estate development on terms satisfactory to the StateView Vendor was arranged by a specified date (collectively, the “**Trust Conditions**”).
26. The Purchase Agreements incorporate an addendum (the “**Addendum**”) prescribed under the *ONHWP Act*.
27. The Addendum requires that, where a Purchase Agreement is subject to one or both of the Trust Conditions, all monies paid by the Purchaser to the StateView Vendor, including Deposits, shall be held in trust by the StateView Vendor’s lawyer pursuant to a deposit trust agreement in Tarion’s standard form, until the Trust Conditions are satisfied or waived.
28. The Addendum provides that, failing compliance with the requirement to hold the Deposits in trust as set out above, the Deposits are deemed to be held in trust by the StateView Vendor for the Purchaser on the same terms as are set out in Tarion’s standard form deposit trust agreement.
29. In the case of some or all of the Purchase Agreements, the Trust Conditions were neither satisfied nor waived. The StateView Vendors failed to comply with the requirement to have their lawyer hold the Deposits in trust under a Tarion deposit trust agreement.
30. As a result, the affected Deposit Proceeds are deemed to be held in trust by the StateView Vendors for the Purchasers, on the terms set out in Tarion’s standard form trust agreement.

31. The StateView Vendors breached their trust obligations under the Addendum in respect of the Deposits, by transferring the Deposit Proceeds to the Deposit Recipients.

32. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion claims damages or compensation from the StateView Vendors for breach of trust, in the amount of the Deposit compensation paid by Tarion to the affected Purchasers, plus Tarion's legal costs on a full indemnity basis.

D. Subrogated claim against Deposit Recipients for declaration of trust, tracing order, and order for payment

33. The Deposit Recipients received Deposit Proceeds that are subject to the Addendum Trust, either directly or indirectly from the StateView Vendors.

34. The Deposit Recipients knew or should have known, when they received the Deposit Proceeds, that the Deposits are subject to the Addendum Trust.

35. In the case of the StateView Principals and the StateView Spouses, they knew or should have known the Deposit Proceeds are subject to the Addendum Trust because, among other things, the StateView Principals were at all relevant times the officers, directors and directing minds of the StateView Vendors.

36. In the case of the StateView Affiliates, they knew or should have known that the Deposit Proceeds are subject to the Addendum Trust because, among other things, the officers, directors and directing minds of the StateView Affiliates are the StateView Principals.

37. In the case of John Doe, Tarion will provide particulars of the person(s)' knowledge or constructive knowledge of the trust once the identity of the person(s) is determined.

38. The affected Deposit Proceeds remain subject to the Addendum Trust in the hands of the Deposit Recipients, for the benefit of the Purchasers to whose rights Tarion is subrogated.

39. In the alternative, Tarion is entitled to a declaration that the Deposit Proceeds, or a substitute for the Deposit Proceeds, are subject to a constructive trust, for the benefit of the Purchasers to whose rights Tarion is subrogated, in the hands of the Deposit Recipients.

40. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion requests a declaration of trust, a tracing order, and an order requiring the Deposit Recipients to pay the Deposit Proceeds, or a substitute for the Deposit Proceeds, to Tarion, plus Tarion's legal costs on a full indemnity basis.

E. Subrogated claim against Deposit Recipients for breach of trust

41. In the event that any Deposit Recipient transferred the Deposit Proceeds to a third party, the Deposit Recipient is liable to the affected Purchaser for breach of trust.

42. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion claims damages or compensation from each such Deposit Recipient, for the amount of Deposit Proceeds transferred to a third party in breach of trust, plus Tarion's legal costs on a full indemnity basis.

F. Direct claim against StateView Vendors for Breach of the VB Agreements

43. Each of the StateView Vendors was a party to a VB Agreement with Tarion, in Tarion's standard form, or was required to be, under the regulations under the *ONHWP Act*.

44. Under the VB Agreements, each StateView Vendor agreed to, among other things:

- (a) diligently perform the obligations of the StateView Vendor:

- (i) imposed by the *ONHWP Act*, its regulations, the VB Agreement and/or the Builder Bulletins/Registrar Bulletins published by Tarion;
 - (ii) under each Purchase Agreement with a Purchaser;
 - (b) pay to the Purchaser the amount of the financial loss suffered by the Purchaser, in the event of the StateView Vendor's failure to perform obligations owed under a Purchase Agreement with a Purchaser;
 - (c) indemnify and save Tarion harmless from and against all losses, claims, costs, damages and/or liabilities suffered or incurred by Tarion resulting from, or arising out of:
 - (i) any non-performance or inadequate performance of obligations imposed on the StateView Vendor by the *ONHWP Act*, its regulations, the VB Agreement and/or the Builder Bulletins/Registrar Bulletins, or
 - (ii) any non-payment of a financial loss amount owed to a Purchaser;
 - (d) pay to Tarion the Administration Fee; and
 - (e) pay to Tarion interest at the rate of 18% per annum, calculated annually not in advance, on any amounts owed to Tarion by the StateView Vendor by virtue of the *ONHWP Act*, its regulations, the VB Agreement or the Builder Bulletins/Registrar Bulletins.
45. Each StateView Vendor has breached its VB Agreement(s) by:

- (a) failing to diligently perform the obligations of the StateView Vendor under Regulation 627, including, in particular, the obligations to:
 - (i) fully indemnify Tarion for monies paid out by Tarion to the Purchasers for which the StateView Vendor is responsible;
 - (ii) pay the Administration Fee;
 - (iii) pay interest to Tarion at the prescribed rate, on all amounts the StateView Vendor owes to Tarion;
 - (iv) pay Tarion's legal costs;
- (b) failing to perform the obligations of the StateView Vendor under the Purchase Agreements with Purchasers, as outlined above;
- (c) failing to pay to the Purchasers the amount of financial loss suffered by the Purchasers;
- (d) failing to indemnify and save Tarion harmless from and against the losses, claims, costs, damages and liabilities suffered or incurred by Tarion resulting from, or arising out of, the StateView Vendor's breach of its obligations to Tarion and the Purchasers;
- (e) failing to pay to Tarion the Administration Fee; and
- (f) failing to pay to Tarion interest at the rate of 18% per annum, calculated annually not in advance, on amounts owed to Tarion by the StateView Vendor.

46. The StateView Vendors are therefore liable to Tarion in damages for breach of contract, for all amounts that Tarion has paid to the Purchasers out of the guarantee fund, plus the Administration Fee, interest, costs and associated taxes.

47. Tarion has requested payment from the StateView Vendors for these amounts. To date, the StateView Vendors have failed to make payment.

G. Direct and subrogated claims for unjust enrichment

48. Tarion claims against each Defendant for unjust enrichment. The Defendants have been unjustly enriched by the compensation Tarion paid to the Purchasers. In particular:

- (a) ***The StateView Vendors:*** (1) The StateView Vendors have been enriched by withholding the Deposits; (2) each Purchaser has suffered a corresponding deprivation by losing their Deposit, and/or Tarion has suffered a corresponding deprivation by having to compensate the Purchaser out of the guarantee fund in respect of the withheld Deposit; and (3) there is no juristic reason or legal justification for the enrichment and corresponding deprivation.
- (b) ***The Deposit Recipients:*** (1) The Deposit Recipients have been enriched via their receipt of Deposit Proceeds; (2) the Purchaser has suffered a corresponding deprivation by losing their Deposit, and/or Tarion has suffered a corresponding deprivation by having to compensate the Purchaser out of the guarantee fund in respect of the withheld Deposits; and (3) there is no juristic reason or legal justification for the enrichment and corresponding deprivation.

H. Subrogated claim against Deposit Recipients for fraudulent conveyance

49. Each StateView Vendor conveyed Deposit Proceeds, directly or indirectly, to one or more Deposit Recipients.

50. At the time of each conveyance, each StateView Vendor effected the conveyance with the intent to hinder, delay or defraud the Purchasers of their just and lawful actions, suits, debts, accounts, or damages.

51. The Deposit Recipients, at the time of the conveyances, had notice or knowledge of the StateView Vendor's intent as described above.

52. As a result, the conveyances are void as against the Purchasers, pursuant to Section 2 of the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F29.

53. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion claims damages or compensation from the Deposit Recipients for the fraudulently conveyed amounts, plus Tarion's legal costs.

I. Subrogated claim against Deposit Recipients for fraudulent preference

54. In addition, or in the alternative, the conveyances are void as against the Purchasers, pursuant to Section 4 of the *Assignments and Preferences Act*, R.S.O. 1990, C. A.33.

55. The Deposit Proceeds were transferred out of the possession of each StateView Vendor when the StateView Vendor was insolvent or unable to pay its debts in full, or when the StateView Vendor knew that it was on the eve of insolvency, with the intent to hinder, delay, or

prejudice the Purchasers, and/or to prefer the interests of other creditors over those of the Purchasers.

56. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion claims damages or compensation from the Deposit Recipients for the fraudulently preferred amounts, plus Tarion's legal costs.

J. Subrogated claim against the StateView Principals for oppression

57. As creditors of the StateView Vendors, the Purchasers have standing to make a claim under section 248 of the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16,.

58. A director of a corporation cannot take assets of the corporation in priority to, and to the prejudice of, unpaid creditors. Nor can the director convey those assets to a third party.

59. The StateView Principals, as directors, officers and shareholders of the StateView Vendors, took the assets of the StateView Vendors for themselves, and/or conveyed the assets of the StateView Vendors to third parties. This was in priority to, and to the prejudice of, the Purchasers as unpaid creditors.

60. The Purchasers, as creditors of the StateView Vendors, may pursue an oppression claim personally against the StateView Principals, for a remedy to rectify such prejudicial conduct.

61. The conduct of the StateView Principals and the StateView Vendors was oppressive and unfairly prejudicial, and unfairly disregarded the interests of the Purchasers. The conduct includes, without limitation:

- (a) misappropriating the Deposit Proceeds for unauthorized transactions unrelated to the purposes for which they were paid to the StateView Vendors;
- (b) mismanaging the Deposit Proceeds, causing the StateView Vendors to become insolvent; and
- (c) failing to adhere to their statutory and contractual obligations concerning the Deposits.

62. Pursuant to its right of subrogation under Section 13 of Regulation 892, Tarion claims compensation from the StateView Principals under the oppression remedy, plus Tarion's legal costs.

Relevant Statutes

63. Tarion pleads and relies upon the *ONHWP Act* and its regulations, the *Business Corporations Act*, R.S.O. 1990, c. B.16, the *Assignments and Preferences Act*, R.S.O. 1990, c. A.33, the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29, and the *Courts of Justice Act*, R.S.O. 1990, c. C.43, all as amended.

64. Tarion proposes that this action be tried at the City of Toronto.

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Lawyers for the Plaintiff,
Tarion Warranty Corporation

TARION WARRANTY CORPORATION v. STATEVIEW HOMES (NAO TOWNS) INC. et al.
Plaintiff Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

STATEMENT OF CLAIM

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Tarion Warranty Corporation

SCHEDULE "B"

Statement of Claim (Warranty Claims)

See attached.

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

(Court Seal)

TARION WARRANTY CORPORATION

Plaintiff

- and -

**STATEVIEW HOMES (ON THE MARK) INC., STATEVIEW CONSTRUCTION LTD.,
STATEVIEW HOMES (MAIN & CO.) INC., CARLO TAURASI, DINO TAURASI, DANIEL
CICCONI, JOHN DOE STATEVIEW SUBCONTRACTOR #1, JOHN DOE STATEVIEW
SUBCONTRACTOR #2, JOHN DOE STATEVIEW SUBCONTRACTOR #3, JOHN DOE
STATEVIEW SUBCONTRACTOR #4, AND JOHN DOE STATEVIEW SUBCONTRACTOR
#5**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto ON M5G 1R7

TO: StateView Homes (On The Mark) Inc.

AND TO: StateView Construction Ltd.

AND TO: StateView Homes (Main & Co.) Inc.

AND TO: Carlo Taurasi

AND TO: Dino Taurasi

AND TO: Daniel Ciccone

AND TO: John Doe StateView Subcontractor #1

AND TO: John Doe StateView Subcontractor #2

AND TO: John Doe StateView Subcontractor #3

AND TO: John Doe StateView Subcontractor #4

AND TO: John Doe StateView Subcontractor #5

CLAIM

1. Tarion Warranty Corporation (“**Tarion**”) claims the following relief against the Defendants:

- (a) damages in an amount to be particularized prior to trial, currently estimated at \$1,300,000 and subject to increase, that Tarion has paid or will pay in response to warranty claims made by the Homeowners (defined below) under the *Ontario New Home Warranties Plan Act* (the “**ONHWP Act**”);
- (b) the 15% administration fee (the “**Administration Fee**”) required by the VB Agreements (defined below), the Indemnity Agreements (defined below) and the *ONHWP Act*;
- (c) prejudgment and post judgment interest at the prescribed rate of 18% per annum as provided for in the VB Agreements, the Indemnity Agreements, and the *ONHWP Act*;
- (d) in the alternative:
 - (i) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (ii) post judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (e) Tarion’s legal costs on a full indemnity basis, including applicable taxes; and
- (f) such further and other relief as the Court may deem just.

Overview of the Claim

2. Tarion is the non-profit corporation charged with administering Ontario's new home warranty program under the *ONHWP Act*. The *ONHWP Act* is consumer protection legislation designed to protect purchasers and owners of new homes.

3. The vendors of the homes at issue (the "**StateView Vendors**") entered into agreements of purchase and sale (the "**Purchase Agreements**") with the purchasers of new homes in Ontario (the "**Homeowners**").

4. The homes sold by the StateView Vendors had design and construction defects that they failed to remedy. The StateView Vendors also delayed closing of certain purchase transactions without paying the required delayed closing compensation, in breach of the statutory warranties set out in the *ONHWP Act*. The Homeowners have therefore sought and received statutory warranty protection from Tarion. Acting pursuant to its authority under the *ONHWP Act*, Tarion paid for remediation of warranted defects in these homes, and compensated Homeowners for their delayed closings.

5. Tarion brings this action to recover the monies it has paid in respect of these warranty claims.

The Defendants

6. The StateView Vendors sold homes, where title to the home was transferred, and the home was the subject of construction warranty and/or delayed closing warranty claims to Tarion that the StateView Vendors failed to remedy. To date, these StateView Vendors include:

- (a) StateView Homes (On The Mark) Inc.

- (b) StateView Construction Ltd.
- (c) StateView Homes (Main & Co.) Inc.

7. Each StateView Vendor executed a Vendor Agreement, a Builder Agreement and/or a Vendor and Builder Agreement (each a “**VB Agreement**”) with Tarion in Tarion’s standard form. Any StateView Vendor that did not execute a VB Agreement breached its obligation under the *ONHWP Act* and its regulations to execute a VB Agreement.

8. The StateView Guarantors¹ are individuals normally resident in Ontario who executed contractual guarantees (the “**Indemnity Agreements**”) in favour of Tarion, guaranteeing the obligations owed by the StateView Vendors to Tarion. The StateView Vendors have defaulted on their obligations, and the defendants have refused to honour the Indemnity Agreements. As a result, Tarion brings this action to enforce the Indemnity Agreements. The StateView Guarantors are:

- (a) Carlo Taurasi (“**Carlo**”),
- (b) Dino Taurasi (“**Dino**”), and
- (c) Daniel Ciccone (“**Daniel**”).

9. The John Doe StateView Subcontractors are defendants consisting of one or more tradespeople, trades corporations or other subcontractors whose identity is not yet known to Tarion, and who supplied materials and/or provided roofing services, masonry services, air

¹ Court File No. CV-25-00736942-00CL is an action brought by Tarion which also seeks to recover damages from the StateView Guarantors in relation to separate guarantees.

barrier installation, caulking installation or other services in the homes sold by the StateView Vendors.

Tarion's claims

A. Statutory warranties for homeowners

10. The *ONHWP Act* and its regulations deem several warranties – including warranties against construction defects, unauthorized substitution of materials, financial losses arising from incomplete work, and delayed closing – to be given by a vendor of a new home to the homeowner. Among other things, the warranties imposed on the StateView Vendors the following obligations:

- (a) The duty to construct the homes in a workmanlike manner, free of defects in material;
- (b) The duty to construct the homes such that the building envelope of the homes prevents water penetration;
- (c) The duty to ensure that the exterior cladding of the homes is free from defects in material and work resulting in detachment, displacement or physical deterioration;
- (d) The duty to construct homes that are fit for habitation;
- (e) The duty to construct the homes in accordance with the Ontario Building Code;
- (f) The duty to construct the homes free of major structural defects;
- (g) The duty to ensure that the plumbing and heating delivery and distribution systems are free from defects in material and work;

- (h) The duty not to engage in unauthorized substitution of items of construction and finishing;
- (i) The duty not to delay closing of the Purchase Agreement except as permitted under the *ONHWP Act* and its regulations.

11. A homeowner who has a valid claim against a vendor for breach of a statutory warranty is entitled to receive payment out of the guarantee fund established under the *ONHWP Act* for damages resulting from the breach of warranty.

12. If Tarion receives a warranty claim and concludes that a breach of warranty has occurred that has not been voluntarily remedied by the vendor, Tarion is obliged to remedy the breach, either by compensating the homeowner out of the guarantee fund or, in Tarion's discretion, by arranging for the performance of any required work.

B. Tarion's direct contractual claim against the StateView Vendors

13. Under each VB Agreement, each StateView Vendor had the following contractual obligations, among others:

- (a) The duty to perform its obligations under the Purchase Agreements with the Homeowners.
- (b) The duty to sell and build the homes in conformity with the statutory warranties, the Builder Bulletins/Registrar Bulletins issued by Tarion, and Tarion's Construction Performance Guidelines.
- (c) The duty to remedy warrantable defects in the homes.

- (d) The duty to indemnify Tarion for Tarion's costs incurred in remedying the StateView Construction Entities' warranty breaches.
- (e) The duty to pay the prescribed 15% Administration Fee on all amounts payable by the StateView Vendor to Tarion.
- (f) The duty to pay interest to Tarion on all outstanding amounts at the prescribed rate of 18% per annum.

14. Several Homeowners made warranty claims in respect of their homes. When requested to remedy the breach of warranty, each StateView Vendor failed to do so, and did not follow the warranty claims and remediation process, which it is statutorily and contractually bound to follow.

15. Each affected Homeowner therefore claimed compensation from Tarion pursuant to the *ONHWP Act* within the applicable warranty periods.

16. To date, Tarion has received, assessed, and paid warranty claims in a total amount exceeding \$1,300,000.

17. Tarion claims directly against the StateView Vendors for breach of contract for this amount, plus the Administration Fee, interest and costs.

C. Tarion's direct contractual claim against the StateView Guarantors

18. Under the Indemnity Agreements, the StateView Guarantors agreed to indemnify and save Tarion harmless from and against any losses, costs, claims, damages and/or liabilities which may arise resulting from or by virtue of the failure of a StateView Vendor to perform or fulfill

any of the guaranteed obligations, or by virtue of the payment or satisfaction by Tarion of warranty claims. The indemnity obligation is subject to a Maximum Liability Amount (as defined in the Indemnity Agreements).

19. The Guaranteed Obligations are “all the obligations, liabilities and indebtedness of the [StateView Vendor] to Tarion from time to time...of whatsoever nature or kind: (i) which are VB Obligations; and (ii) otherwise, in respect of any Homes Commenced by the [StateView Vendor] during any Builder Activity Periods following the Commencement Date.”

20. The VB Obligations are “any and all obligations, liabilities and indebtedness of a vendor and/or builder to Tarion under the *ONHWP Act*, any agreement with Tarion, Builder Bulletins or otherwise, including, without limitation, all amounts Tarion pays out to resolve a vendor or builder’s warranty obligations, as well as statutory administration fees and interest (whether or not actually incurred) and other third party costs including legal fees on a substantial indemnity basis in enforcing this Agreement.”

21. The payments that Tarion made to Homeowners to compensate them for their warranty claims were payments that the StateView Vendors were required to make. The StateView Vendors owe an obligation to reimburse Tarion, under the VB Agreements, and under the *ONHWP Act* and its regulations. The StateView Vendors are indebted to Tarion for these amounts, plus the 15% Administration Fee, interest at 18% per annum, and Tarion’s legal costs.

22. Tarion has invoiced each StateView Guarantor for amounts payable to Tarion under the Indemnity Agreements.

23. In breach of the Indemnity Agreements, each StateView Guarantor has failed or refused to indemnify Tarion or to perform the obligations of the StateView Vendors.

24. The StateView Guarantors are therefore liable to Tarion in damages for breach of contract, for all amounts that Tarion has paid to the Homeowners or for their benefit out of the guarantee fund, plus the Administration Fee, interest at 18% per annum, legal costs and associated taxes, subject to the Maximum Liability Amount.

D. Tarion's subrogated claim against the StateView Vendors

25. Under its right of subrogation set out in Section 13 of Regulation 892 under the *ONHWP Act*, Tarion brings a subrogated claim against the StateView Vendors for breach of warranty under the *ONHWP Act* and its regulations, and for breach of the Purchase Agreements, in connection with these warranted claims.

26. Tarion claims, on a subrogated basis, the amount paid out of the guarantee fund to resolve each warranty claim, including any associated investigation costs, as well as any legal costs incurred by Tarion in the subrogated action.

E. Tarion's claims by way of assignment from the StateView Vendors

27. The StateView Vendors entered into VB Agreements with Tarion. Under these agreements, each StateView Vendor is required to preserve all assignable rights and claims it may have against other parties in respect of defects, and to assign and transfer these rights and claims to Tarion forthwith.

28. Tarion requests and requires that assignment and transfer, and claims against the John Doe StateView Subcontractors on the basis of those assigned rights and claims.

F. Subrogated, Assigned, and Direct Claims against the John Doe StateView Subcontractors for Negligence

29. The John Doe StateView Subcontractors owed a duty of care to the Homeowners to ensure that the roofs, masonry work, air barriers, caulking and other elements of construction were designed, constructed, installed, and tested in a safe, proper and workmanlike fashion, free of defects in materials and workmanship, in accordance with applicable building codes, applicable law (including the *ONHWP Act*), and in conformity with the plans, permits, and drawings for the homes that were sold by the StateView Vendors.
30. The John Doe StateView Subcontractors owed a similar duty of care to Tarion, for the reasons explained above.
31. The John Doe StateView Subcontractors' breach of their duty of care included failing to:
- (a) ensure the roofs, masonry work, air barriers, caulking and/or other features were completed, designed and/or installed in compliance with applicable construction and/or industry standards and codes;
 - (b) properly construct the homes, and inspect their construction for, compliance with:
 - (i) permits and/or engineering, design or other drawings and/or plans for the homes; and/or
 - (ii) applicable construction and/or industry standards and codes;
 - (c) properly install, and inspect installation of materials;
 - (d) ensure the design and materials for the homes were adequate for their purpose;

- (e) test the components of the homes including the roofs, masonry work, air barriers, and/or caulking;
- (f) follow the recommendations and/or instructions of the StateView Vendors and the StateView Guarantors regarding the design, construction, installation, and/or testing of the roofs, masonry work, air barriers, caulking or other features;
- (g) refuse approval of the design, construction, installation, and/or testing of the roofs, masonry work, air barriers, caulking or other features when they knew or should have known some or all were inadequate;
- (h) design in a way that would have prevented the circumstances which led to the defects;
- (i) take any measures to prevent the circumstances which led to the defects;
- (j) warn Tarion or the Homeowners of deficiencies in design, construction, installation, and/or testing of the roofs, masonry work, air barriers, caulking or other features;
- (k) discover and remedy deficiencies in the design, construction, installation, and/or testing of the roofs, masonry work, air barriers, caulking or other features;
- (l) hire competent subcontractors, employees, servants, and/or agents, when they knew or should have known that those hired were not capable of carrying out the tasks they were hired to do;
- (m) properly (or at all) train, supervise, inspect, and/or monitor the work of their employees, agents, servants, and/or subcontractors; and

(n) such further and other particulars which are in the exclusive knowledge and possession of the John Doe StateView Subcontractors.

32. The negligence of the John Doe StateView Subcontractors caused damage to the Homeowners and Tarion as explained above.

Relevant Statutes

33. Tarion pleads and relies upon the *ONHWP Act* and its regulations as amended, the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended, the *Negligence Act*, RSO 1990, c N.1 as amended, and the *Building Code Act*, 1992, SO 1992, c 23 and its regulations as amended.

34. Tarion proposes that this action be tried at the City of Toronto.

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TARION WARRANTY CORPORATION v. STATEVIEW HOMES (NAO TOWNS) INC. et al.
Plaintiff Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

STATEMENT OF CLAIM

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Tarion Warranty Corporation

**IN THE MATTER OF THE BANKRUPTCY OF
STATEVIEW HOMES (ON THE MARK) INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Court/Estate Nos. 31-3095661

***ONTARIO*
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**ORDER
(Lifting Stay of Proceedings)**

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