

Economics Reference Committee

Submission to Senate Inquiry into Non-Conforming Building Products

Dear Sir / Madam,

I would like to be part of such an inquiry, particularly if the scope of the inquiry embraced labour (workmanship) including that of those involved in the building and permit processes.

I have recently been writing for 'Sourceable' on regulating the Victorian (residential) building construction industry as regards achieving a virtually dispute-free playground for builders and home owners.

The costs of disputes in Victoria alone (to both sides combined) is running at over \$5Billion per annum... and increasing. In 2014 alone, Victorian home owners paid out over \$3Billion fighting their builders.

The economic blight attached to this potential for bankruptcy of home owners and builders alike must be obvious to those with economic know-how. The houses are also not rectified and are not saleable. There is also enormous wastage of resources.

The recent numerous audits of (I assume) most of these disputes in Victoria by the Auditor General and the Ombudsman, have all ended up summarising the main cause as being poor workmanship.

What can I bring to this topic?

I have specifically researched defects in finished or under-construction houses as a Building Consultant; and this has in turn led my focus towards unfairness in the Victorian Residential Building Industry, which I have assiduously researched for over 15 000 hours spanning a period of more than 10 years, since privatization of Building Surveyors and later Building Warranty Insurance took effect.

In every instance of the 120 (+) very poorly built 'shocker houses (of over 450 inspected)... where each had at least \$75 000 worth of defect rectifications required; there had been a Registered Builder, a Registered Building Inspector, a Registered Draftsman (or Registered Architect), a Registered Structural Engineer /and/or Registered Soil Tester involved with each and every project... under the guiding hand of the Registered Building Surveyor, be those projects new houses, new units or additions to existing houses. The situation may also prove to be similar for some apartment towers.

I estimate that there are tens of thousands of these 'shockers' in Victoria alone. Many have defective slabs that we have heard about recently, but there are many other possible defects, that when added together, can lift the rectification costs for a new home to well in excess of \$75 000. Four of that mix were over \$200 000 (+) to rectify at today's prices.

In each of the 120 examples referred to above, there had been gross negligence by at least the Builder and the Building Inspector (working for the Building Surveyor)... and very often what could be termed contributory negligence by one or more of the Structural Engineer, the Soil Tester, and even the Specifier (often the builder but sometimes the Draftsman or the Architect).

Almost every new house of the 450 (+) that I inspected had at least a dozen commonplace moderate defects warranting rectification worth over \$8 000. Many of these defects had already been band-aided once or twice during the warranty period.

And in 20 of the 23 cases where a (Registered Building Practitioner) Building Consultant had previously reported on the defect status of the new home projects, they missed over 80% of the actual defects averaging \$50 000 (+), including the dozen commonplace defects just mentioned. At today's prices, one Building Consultant missed all \$240 000 worth of defects, while another missed 90% worth over \$120 000. One structural engineer missed all 12 structural defects. These people are supposed to be the guardians of quality!

In the case of the Alucobest panels used for the exterior cladding in the Docklands apartment tower that burnt rapidly from the 6th (?) floor balcony to the top (21st) floor, it was the lack of caring by the Specifier(s) of the exterior panels and the lack of scrutiny by the Building Surveyor at fault it seems to me, plus quite possibly the incorrect or inadequate (or simply wrong) specifications of the overseas manufacturer of the panels or their subsidiaries. Considerable care by any one of these parties could have averted the disaster.

Even when inferior or unsuitable materials are used, it is most likely the lack of scrutiny and lack of caring by those involved in the specifying and/or those who grant the permits at fault, but rarely the products themselves it seems to me. This is very similar to the scenario that has permitted so many slabs to fail in Victoria, where soil reporters' recommendations are ignored and vital information is not ferreted out by those report writers.

This enquiry (in my opinion) needs most importantly to address the negligence or potential for negligence in such matters, concentrating on the Specifiers and the Registered Building Practitioners (VIC) including soil report writers who recommend but do not insist on measures that should really be undertaken... at extra expense. (These recommended measures are often not undertaken simply to keep the house under the owner's budget and time frame, but the owners are not fully informed by their builders or their building surveyors as to the possible outcomes. Builders so often employ the building Surveyors and the Draftspersons).

The lack of good quality workmanship that goes unsupervised by experienced builder eyes, allows significant short-cutting to be built into virtually all new homes as well; often compounding what would have been fairly cheap to rectify at each stage, but costing so much more when layer after layer is added over these short-cuts.

Sometimes what I call 'blunders' are also usually made because of this lack of experienced supervision. Up-graded supervision will rid the industry of most of the short-cutting.

Australia needs to rid the residential building industry of the widespread repeated negligence by so many of the registered players in the documenting of new homes, the granting of building permits and the building construction processes.

Otherwise there will be a continuing blight resulting from bankrupt home owners who fought their builders for their rights (generally failing due to the lack of expertise of their Building Consultants and the unreasonableness of VCAT Mediations and Compulsory Conferences and some precedents). This will in turn remove much of the multiplier effect for those owners and their builders who for some reason nearly always fight their clients.

The lack of expertise of most Building Consultants, Building Warranty Insurance, the grey areas rife in the Standard Building Contracts, Australian Standard Codes and Specifications... together with the current building authority aids and the VCAT system, ensure that most home owners will not realise their rights to have their poorly built homes rectified.

The legislation only needs tweaking in my opinion. In my opinion, the recent proposal to change legislation would merely have stripped home owners of more rights. It showed how out of touch the State Government of the time actually was. Previous State Governments also failed to address this large blight on the economy.

I have written a book called DEFECT that was published in March this year.

The book can help any prospective or under-construction home owner (or builder) who wishes to avoid ending up with a poorly built home. Its aim is to create a fair playing field in the world of building contracts.

My book reveals what needs to change in order to achieve the results that all home owners (and if they would only think about it... the builders) want; namely a dispute-free industry.

The recommendations in my book could kick-start extremely beneficial changes in the residential building industry without much change in legislation, re-directing the authorities already in existence to root out the causes of poor workmanship instead of generalizing and acting by osmosis and without real determination to rid the industry of its repeat offenders.

Yours Sincerely,

Mark Whitby Building Consultant / Architect Author of the book DEFECT