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**SUBMISSION TO THE SENATE ENQUIRY INTO COMPULSORY  
BUILDERS WARRANTY INSURANCE**

Our Australian dream has turned into our worst possible nightmare. It all began when our contracted builder failed to complete our homes, and the in-accessible Statutory Insurance product made mandatory on us. Our homes now require demolition. We had financed to build 3 family homes. We signed 3 Domestic Building Contracts in 2003. We paid all necessary fees, levies (even one for failed private insurer HIH), taxes and Insurance premiums. Our parents were in good health and everyone was excited about living together in the area we had spent all our lives and most of my parents in. Our mother worked for the family in the same Street for 30 years. Our father worked in the same suburb for 30 years as well. He is a war veteran who was alongside Australian soldiers in North Korea. This was their only home. How in the twenty first century in this country can our family including elderly people, who originally own their own home, were happy and healthy endure five years of hell, and come out with no home, broke and in extremely ill health due directly by the stress caused by trying to rebuild our homes. Our father is now in bad health and our mother suffers of Parkinsons disease. The doctors have attributed both their rapid decline in health due directly by the stress this matter has inflicted on them.

**Background.**

By late 2004 the contract term had expired and only 20% of the works were completed. The builder at the time had continued on works without current registration. It had lapsed. The contract was ended and the builder never returned. We notified the insurer which failed to acknowledge us. Due to the unrectified faults and because more defects were identified daily, we decided to engage expert opinion on the matter. The works are deemed defective by experts. The slab had not had a final inspection prior to pour and was found not to comply with Australian Standards. We couldn't even continue. Further core tests show the slab it is not compliant with Australian Building Standards. What is the point of standards if they are disregarded? Independent building experts and engineers have concluded it's a demolition job. We have spent well in excess of \$100,000 just on reports which show the works are defective

The home owners in our case were our elderly parents of 80 years old and past their working life.

Our family's ages range from 11 to nearly 80 years old. This matter has consumed our life for the past 5 years. Our only available course of action for rectification or compensation was VCAT. A supposedly quicker and low cost

forum to hear domestic building disputes. The builder was then placed in liquidation.

The current BWI scheme means taxpayers and consumers are funding the Courts to run building disputes that can be better dealt without them.

It hasn't made any difference how much money was spent to conclude the matter. We have been incurring legal fees, mortgage costs and rental accommodation from 2003 to date. Our losses exceed \$1,000,000.

Our family including elderly parents has been stretched to breaking point, first by a rogue builder, and now by the Insurer. Our homes after nearly 5 years remain less than 20% complete and in a state requiring demolition.

We are caught in a system recommended by Insurers and legislated in good faith by the Government. We then reluctantly go through the exhaustive process believing we will have our homes rectified. It is a bizarre situation where consumers have no insurance to claim upon or Statutory Body to order a builder or Insurer back quickly to rectify.

To date approximately \$800,000 to 1 million dollars has been spent on legal costs collectively in court and our matter has not concluded. This began as a relatively straight forward defective building dispute.

This builder's failure has become an unnecessary burden on our family. Last Resort Insurance has been incorrectly branded as Warranty Insurance.

Needless to say our case is not new, just a horrifying situation faced by all Consumers who have been abandoned by this worthless product.

The Insurance Ombudsman has no jurisdiction in respect of Builders Warranty Insurance claims to adjudicate the matter sensibly and in good faith so there is no where else to turn to except courts.

The current system protects rogue builders, fleecing consumers, who then find they have no access to Builders Warranty Insurance, no access to The Insurance Ombudsman, and no access to any regulatory body that can provide a quick and economical outcome, but instead are faced with huge legal bills to enforce their rights that then destroy the very people and their families who need quick resolution to being misplaced from their homes.

This is a situation whereby the insurers are happy to stand by month by month, year by year, and watch the costs escalate rapidly; knowing that the consumers will capitulate first, and if they don't, the most cover a consumer has under Builders Warranty Insurance at best is 20% cover for completion of works and a total sum of \$200,000 per policy in Victoria. That does not include legal costs which is absurd considering the matter is forced into the courts. Their liability does not grow with time, ours does.

In this country consumers are normally afforded high levels of protection when purchasing faulty goods or services. There is more protection, economical courses of action, and stricter regulation on purchasing a \$5000 used car than when you build a home, the single biggest investment most families will ever make.

We hope that the Federal Government would now put whatever pressure possible on the Insurance giants that inflict this pain in bad faith on consumers in the name of their "profit", and have them mitigate losses & actually rectify or pay valid claims to affected consumers and stop using the courts and unfair policy wording that in no way reflects issuing of insurance in good faith. Government's must not allow Insurers or badly devised legislation destroy the very people they were legislated to protect. No families should have to fight legal battles against huge insurers with the resources they have at their disposal.

The Builders Warranty Insurance we paid was expensive, unfair, and unrealistic in terms of cover and was not transparent at all.

The situation is diabolical if the cost of fixing the house, plus legal costs, plus rent exceeds the cap on liability as detailed in the insurance policy (now \$200,000). In such a case, with the cap imposed, monies which should have been available to fix the house would have had to be used to pay legal costs and rent trying to get an outcome, leaving us as homeowners out of pocket for the repairs and unable to fix the houses. This seems to be at odds with the intention of the original legislation and intention of the Insurance.

Every Australian has the right to pursue their dream home without worrying about getting ripped off by builders, lawyers or Insurers.

When considering whether urgent changes are needed, please consider the rights of consumers in such a big purchase, who have paid for something they never received, insured something they could never claim for.

Consider the rights of all hard working families and the financial burden on for the rest of our lives and others. The stress and the anxiety of just trying to keep the home we already owned is beyond explanation. Consider it has taken a lifetime to own that home and originally only twelve months for someone to destroy our dream. Consider nearly 5 years of our lives have been blown away in misery. At a time when Housing Affordability is said to be so low, and the difficulty families face with the current cost of living, we felt compelled to make this submission because those lucky enough to get to a stage of being able to build and own a home, should not be subjected to this type of disaster.

We thank the Senate for considering our submission and look forward to your findings and recommendations

Yours sincerely

Jim, George, Stamata, Gerasimos, Korfiatis and children.