

**INQUIRY INTO INQUIRY INTO THE OPERATIONS OF
THE HOME BUILDING SERVICE**

Organisation:

Name: Mrs Kalavati Magan

Telephone:

Date received: 17/11/2006

This submission has been kept partially confidential by resolution of the Committee.

**A d d e n d u m S u b m i s s i o n t o
t h e G e n e r a l P u r p o s e
S t a n d i n g C o m m i t t e e N o . 4**

**I n t o t h e O p e r a t i o n s o f
t h e H o m e B u i l d i n g
S e r v i c e**

Personal Details:

Name: Kalavati Magan

Resides:

Ph/Fax:

Mob:

Email:

Licensed Builder:

Name:

Licence No:

Statutory Declaration:

I, Kalavati Magan in the state of New South Wales of
, do not solemnly swear and sincerely declare the following statements are true
and correct and I am happy to give further sworn evidence orally answering any
questions the committee may ask.

I, Kalavati Magan, submit this additional submission to the "GPSC No. 4".

We have been BARG members since approximately June 2005.

On 17/11/06 I was present during the public notice hearing proceedings - inquiry into the operations of the HBS at Parliament House, Sydney when the Hon Jan Burnswoods stated:-

The Hon JAN BURNSWOODS: *"When BARG acts on behalf of someone with a building problem, do you actually then get a fee from them for doing the work?"*

Refer: Page 18 of the Hansard 17/11/06.

The Hon JAN BURNSWOODS: *"My information is that Mr Frasca costs between \$11,000 and \$17000 ..."*

"In addition to that, it seems from looking at the submission and the detail, that his reports almost always or usually recommend the total demolition of a property."

Refer: Page 18 of the Hansard 17/11/06.

BARG is an unfunded consumer group whose members only pay a voluntary membership fee as a voluntary donation per financial year.

Since joining BARG in June 2005 we have not paid BARG or any of its members for the time, effort and advice provided. BARG has assisted me to prepare my file and chronology. The membership fee is given to a Committee Member, put in an account and used to buy stationary ie: ink, paper for/ as the evidence in this inquiry.

As a BARG Member I was extremely offended, shocked and dismayed at comments made by the Hon Jan Burnswoods suggesting BARG profits from members suffering.

I have been an active BARG Member for approximately a year and a half and know this is not the case.

Mrs Onorati as BARG's President has dedicated her life to assisting and support building consumers in need. It is an insult to my family and the rollercoaster ride we have been forced to endure to even think of something so vile.

Not only does the HBS not assist my family in our time of need but now we are insulted by the attempts to discredit the only volunteer consumer group and person that is actively assisting us.

On 21/2/06 I lodged a complaint with the OFT against my builder attaching Alfred Frasca and Associates structural engineering report. In my case Mr Frasca has asked for demolition. This decision was reached after thorough investigation and exploratory works. I refer to my submission lodged on the 16/11/06 to the "GPSC No. 4".

Attachment 1 - Alfred Frasca and Associates structural engineering report dated 30/11/05. (2 Volumes)

Attachment 2 - Alfred Frasca and Associates brief report requesting demolition dated 2/2/06.

Please note: after we moved in we noticed there were a lot of problems: water penetration through internal ceilings throughout the house, floor movement, broken roof tiles, cracks and much more.

We were forced to commission an independent building consultant, Andrew Phillips Building Consultants to assess the building works as the builder did not fix all of the problems we identified and I was deeply concerned about that water penetration. As water was leaking inside and out.

Mr Phillips produced a defective work report dated 9/8/01.

On 7/3/02 Mr Phillips while he was inspecting our house he slipped and fell down our seriously defective driveway and was hospitalised. We have been advised that he has received substantial compensation.

I was provided the following reports by Henry Davis York Lawyers GIO Insurance Solicitors acting on behalf of myself:

1. Report from Eccles Clarke and Associates Pty Ltd dated 24/5/02 described the construction of the driveway, where sloping areas were greater than allowed in council regulations, as "dangerous". Attachment 3
2. Report from Phillips Building Consultants & Inspectors dated 23/5/02 – Preliminary Defective and Incomplete Work Report.
3. Report from Dr B N Emerson dated 29/6/02 - described the construction of the driveway, as "unsafe for any person, particularly elderly and young children, to walk safely and avoid slipping on the steep driveway gradient, particularly when the surface is wet". Attachment 4
4. Report from Dr John Cooke dated 10/2/04

On 26/7/02 LAC Building Consultants provide a copy of their report. At page 2 point 1.0 Mr Scott Whitton from LAC Consultants stated: -

"1.0 I inspected the scene of the accident on 25/3/02. Photographs were taken and are attached and referred to in this report. Measurements and levels were taken, and from these, two drawings were prepared, which shows the gradient of the drive, together with the maximum gradient allowed by the Liverpool Council development Control Plan. The Drawings are attached as Appendices "A" and "B".

And at his summary Page point 2.0- 2.1 Mr Scott Whitton states:-

2.0 *"The driveway is too steep to provide safe access for persons using it. The surface appears likely to have contributed to the slip. Once a slip, involving a person coming down the drive, then the combination of the gradient and the forward motion, would be difficult to arrest, and the slip could continue from the smooth finish of part of the surface, across the rougher finish, by virtue of the inertia in forward motion induced by the steepness of the slope and the persons body weight."*

2.1 *"In my opinion the construction of the drive in the sloping areas, which are greater than allowed by Council regulations, is dangerous. The conditions generated by the design and construction, created a condition, where it is almost evitable that an accident would occur at some time, involving a person using the drive, for access to and from the house. Attachment 5*

I lodged an amended claim to Vero on 6.6.06. On 9/10/06 I received correspondence from Vero Insurance:-

"We advise your claim has been determined as the outlined in the attached inspection summary"

The items accepted in the list are only 5 out of a total of 135 critical, serious defects. Even Vero noted at least 5 defects. Attachment 6A

It is to be noted that in my amended claim the driveway issue was denied. See items: 69, 79, 104, 105, 106, 107, 108, 109, 110, and 111. Attachment 6B

After 8 months since we lodged our complaint to the OFT obtaining 11 reports, at a cost in excess of \$20,000, 6 years of suffering to prove the serious, critical defective work on 14/9/06 received OFT letter advising that: -

"The Principal Building Inspector concluded that from his inspection of the premises there was no evidence of defective work". Attachment 7

On 20.9.06 we requested Mr. Frasca to assess and reply to OFT letter dated 14.9.06 as we could not accept the OFT's assessment (especially when Mr. Stubbs has no Engineering Qualifications). Mr Frasca stated: -

"The statement by OFT in their letter dated 14 September 2006 that "there is no evidence of defective work" is incorrect.

We are prepared to meet any structural consultant on site to demonstrate the areas of structural inadequacy and the non-compliance with the DA approved plans, council conditions of consent, BCA, and Australian Standards".
Attachment 8 -Alfred Frasca and Associates brief report dated 20/9/06

OFT has not provided me with any assistance or mediated facility on that day or any other day, furthermore:-

- a) Did not assess defects by an appropriate qualified structural engineer. Numerous requests have been made to OFT in order to ascertain whether Mr. Stubbs has the appropriate structural engineering qualifications, however a response was not provided.
- b) No attempt was made to mediate between the two parties. I was not even aware that a mediation process existed. The day he came he didn't explain procedures or options available, if any.

The decision of the OFT is reducing our chances of winning any dispute resolution as being a Statutory Authority the Builder will use this OFT decision against us.

This is how damaging the OFT decision is.

On 6/10/06 I received a letter from Liverpool City Council as the PCA who has provided us with a copy of a letter dated 26/9/06 written to _____ in relation to:-

"Documentation received from Alfred Frasca's and Associates concerning several matters relating to structural and architectural finish of the subject dwelling. Seeking confirmation on some of these issues"

Attachment 9

It is evident that Council has acknowledged Alfred Frasca's report and is accepting his assessment and has requested _____ to provide a response.

This clearly demonstrates 3 separate Government/ Insurance Bodies are assessing and concluding in 3 very different ways about defective work.

Why?

Is the OFT's Inspection so biased and/ or unqualified?

Can this respectful Committee assess and consider the OFT's actions? Certainly experts cannot be wrong especially Alfred Frasca to put his professional career at stake.

Especially the quote in his brief report of 20/9/06 stating:-

"We are prepared to meet any structural consultant onsite to demonstrate the areas of structural inadequacies and the non – compliance with the DA approved plans, council conditions of consent, BCA and Australians Standards" Attachment 8

We, like Mr. Frasca, dare and request any qualified expert engineer to meet on site with Alfred Frasca so that we can compare lemons with lemons, no apples with lemons.

For the past 6 years my family have suffered undue physiological, financial and emotional hardship.

I hold liable the Office of Fair Trading who refused to enforce the HBA 1989 as per their statutory duties and continue to force my children and I to live in a health hazard house endangering their lives.

To date OFT/HBS have failed to carry out their statutory duties towards my family and the public at large.