

Supplementary  
Submission  
No 21c

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

**Name:** Ms Luisa Berg

**Date received:** 8/11/2007

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Partially Confidential

L.L. Berg.

7 November 2007

The Director,  
GPSC No.2  
NSW Parliament House,  
SYDNEY NSW 2000  
Macquarie St,

Dear Madam/Sir

Re: Legislative Council – GPSC No 2 Inquiry into the operations Building Service of the Office of Fair Trading

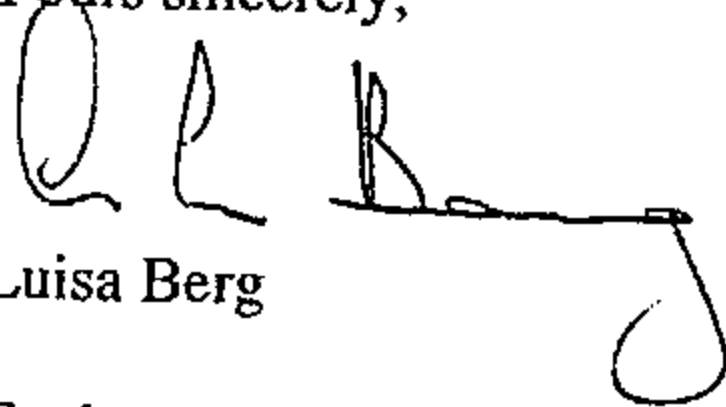
Further to the submissions into the operation of the Home Building Service of the Office of Fair Trading Nos. 21, 21a and Addendum, which I provided to the GPSC No. 4 in November 2006, I now attach an up to date submission of my case for your attention and distribution to the Members of the GPSC No 2.

I also enclose pp 1-2 of Extracts from NSW Legislative Council Hansard and Papers dated Tuesday 19 September 2006 relating to the address by Reverend the Hon. FRED NILE which is pertinent to my case.

Presently, the Home Building Service and the Office of Fair Trading are renouncing to deal with those cases which they classify as "old licences".

I kindly request the Members of the Committee No. 2 to assess the status and position of the "old licences" and make appropriate recommendations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luisa Berg', with a large, stylized flourish at the end.

Luisa Berg

Encl.

Ms Luisa Berg

SUBMISSION TO THE GPSC No. 2

Dated 7 November 2007

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INQUIRY INTO OPERATIONS OF THE HOME  
BUILDING SERVICE OF THE OFFICE  
FOR FAIR TRADING

**L. L. BERG**

**SUPPLEMENTARY SUBMISSION**

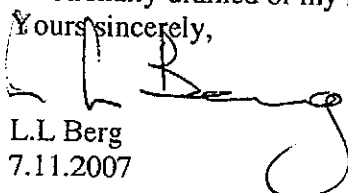
1. I am a retired woman aged 73 and was Part-time Member of the Consumer, Trader and Tenancy Tribunal (CTTT) for 18 years until 2002.  
  
My life was completely disrupted and financially drained by entering into a home building contract on 15 January 2001 with a Contractor who caused me to invest my life savings and incur heavy financial losses and other damage losses.
2. The Contractor in charge of the project acted as the Builder, the Supervisor, the professional Civil /Structural Engineer and the Designer of the project. Two unqualified men, one of whom was the acting Supervisor and the other a labourer, carried out most of the work.
3. I became aware that the building work was defective and did not comply with the minimum standards set by the Building Code of Australia and the Australian Standards shortly after the builder commenced work. However, the builder refused to rectify his defective work, unless I paid him in advance for rectifying his defective work and completing the work to that stage.
4. I expected to be indemnified for my damages and losses in pursuance of the NSW Government Rescue Package and Home Warranty Insurance Scheme as a victim of first resort. However, during this time, the Office of Fair Trading (OFT) entities mishandled my claim and wrongly treated me as a victim of last resort.
5. I hold the Office of Fair Trading and its associated entities responsible for my situation as throughout the process they failed to carry out their functions with respect to the following matters :
  - a) Licensing,
  - b) Home Warranty Insurance
  - c) Resolution of complaints and Conclave,
  - d) Exercise of disciplinary powers (Investigation and Prosecution)
6. On 18 May 2001, 13 March 2002 and 24 May 2002, I notified the Insurer's agents for the entity of the Office for Fair Trading, presently known as the "Corporation" and also known as the Building Insurers' Guarantee Corporation or **BIG** of my claim against the builder.
7. I hold the Office of Fair Trading and the Home Building Service responsible for their failure to act with due care, fairness and good faith towards my interests as a beneficiary of the Home Warranty Insurance scheme by having :
  - Deliberately delayed to inspect and to deal with my claim for the faulty work and to pay out my claim on reasons, which cannot be justified on an objective basis.



- Neglected to ensure the builder had the appropriate licence and was competent to carry out home building work in light of the history and restriction of his licence which excluded him from doing Home Building Insurance work.
- Prevailed upon me on 4 July 2003 to discontinue proceedings against the Guarantee Corporation (BIG) in the District Court by threatening to take the matter all the way to the High Court.
- Reneged on the undertakings by its in-house Solicitor, Mr. Michael Hanna, had given to my Solicitor, Mr. Richard Watson to the effect that **“my discontinuance against the Corporation would not prejudice any claim by me under the Insurance policy and rescue package”**.
- Supported the builder by not intervening when the builder did not abide by the direction given by the Guarantee Corporation nominated building Consultant and ignored the letters from my Solicitor.
- Although conceding that the majority of my complaints are justified, refused to meet my claim on the pretext of District Court proceedings, which were initiated by the builder. In addition, it remained receptive to the builder’s influence and ruthless conduct throughout the dispute.
- Failed to address the issue of the builder’s provision to me of invalid certificates of structural work and not restricted the builder’s current licences in spite of the builder holding licences issued in different numbers or different names to his original licences. By this ploy, it allowed the builder to circumvent the restriction in his licence to carry out Home Building work.
- Failing to process my claim fairly and in good faith without undue delay and to fully indemnify me for my losses as provided by the NSW Government rescue package as a victim of first resort. But for the Corporation’s inaction, I would not be in the position of having a half built house that has to be reconstructed, after having paid \$ 256,000 in legal and consultants’ fees to try to prove my case.

I spent the last 6 years of my life to sort out the sorry mess created by a builder’s who represented that he was a Committee Member of the North Sydney Branch of the Master Builders Association! I have depleted all my savings and I am physically and emotionally drained of my resources.

Yours sincerely,



L.L. Berg  
7.11.2007