

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

Organisation:

Name: Mr Chris Fitzgerald

Telephone:

Date received: 4/12/2006

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

- Inquiry -Operations of the Home Building Service

From: "Chris Fitzgerald"
To: <GPSC4.GPSC4@parliament.nsw.gov.au>, <Norman.foster@oft.commerce.nsw.gov.au>
Date: 4/12/2006 11:13 PM
Subject: Inquiry -Operations of the Home Building Service
CC: <MinWestSyd@beamer.minister.nsw.gov.au>, <mulgoa@parliament.nsw.gov.au>, "Richard Amery" <mountdruitt@parliament.nsw.gov.au>

Attention: Rebecca Main

Hi Rebecca and Marie,

You will recall I have made several submissions to the Parliamentary Enquiry.

Although submissions are now closed, I today received a "response" from Fair Trading resulting from an "inspection" by Norman Foster on 30 October 2006. This letter follows on from the submissions I have already made and raises yet more questions on the behaviour of the Home Building Service.

Mr Foster was investigating a complaint I made about one of their previous "inspections" conducted by [redacted] on 23 June 2005 -more than a year ago. Mr [redacted] deleted e-mailed information I had sent him and then claimed I could not substantiate my claims. Mr [redacted] hadn't realised I had put Read Receipts on my e-mails:-

☞ Date: Yesterday

	Not read:		Mon 24/10/2005
	Not read:		Mon 24/10/2005
	Not read:	-Photo Sheets (attached)	Mon 24/10/2005

My **27 September 2005** complaint about Mr [redacted] breach of his Code of Conduct was referred to ICAC by the Fair Trading Minister, but ICAC was never aware of the deleted **24 October 2005** information.

Mr Foster assured me he was having the deleted e-mails recovered from the Fair Trading backup system, but I am not aware it was ever done. I have not mentioned before that I sent the e-mails using my RTA e-mail address

-hence they will still be available on the RTA's backup system.

It must be costing tens of thousands of tax dollars for these public servants to keep "spinning" the information to paint their work in a positive light. They should be protecting the consumer and prosecuting their licence-holders.

Note: **I have never used unlicensed Tradesmen.**

I have attached a copy of the "reply" I received today (**061128 Comm Fair Trade.pdf**). Please compare it with the e-mails I sent him (below) and observe the stark contrast.

The letter totally fails to document the unconscionable behaviour of the Fair Trading Licence Holders or the fact they failed to act in a timely manner.

I have no reason to withhold information that proves my case and the documents I have speak for themselves.

I would be very pleased to go over the Fair Trading File with someone appointed by the Inquiry. We can then determine if the deleted e-mail information really is on the file or not.

Mr Foster's advice to me on the day, was to finish the house and get my life back. He failed to recognise the building faults mean the house will ultimately sell at a substantial loss. This will probably take me from being a self-funded retiree to a government-funded pensioner.

I cannot explain Fair Trading's behaviour -perhaps your Inquiry will get to the bottom of it?

I will quite happily assist you and the Inquiry in any way I can.

Again, thank you for seeking to champion consumer rights in a system that so seriously victimises them.

Sincerely,
(Mr) Chris Fitzgerald

From: Chris Fitzgerald
Sent: Monday, 30 October 2006 11:31 PM
To: 'Norman.foster@oft.commerce.nsw.gov.au'
Cc: 'MinWestSyd@beamer.minister.nsw.gov.au'; 'mulgoa@parliament.nsw.gov.au'; 'Richard Amery'
Subject: Your Reference 11340 C2005/2954 -Meeting/Inspection

Hi Norm,

I just wanted to confirm a number of issues about today's meeting with you.

Retaining Wall

1) When _____ came on site in June 2005, both _____ and _____ held current licences.

2) The seven year time limit on taking action was still valid -as I did not terminate until July 1999.

3) _____ was not licenced to construct the retaining wall but it is now too late to seek remedy from him.

4) _____ acted unconscionably in the following ways:-

- a) Starting work without a contract
- b) Failing to provide a proper contract which complies with the Home Building Act
- b) Failing to provide Home Warranty Insurance (with-holding it until September 2005)
- c) Not complying with Council conditions concerning the retaining wall.
- d) Liaising with _____ to build the retaining wall without a contract, without Home Warranty Insurance and without relevant licence.

It remains unexplained why the formal caution issued against _____, was never noted on their licence.

Level of the Slab

The level of the slab was not defined in the contract. Although I presented a FAX of a contour plan from _____ not tied to the contract.

_____ detailing a slab level, it was

As you observed from photos, my land originally had a fairly uniform slope and was well kept and did not require landscaping.

Referring to the Slab Design Plan, because the East (garage) end of the slab was above natural surface, it created the need for piling.

Being above ground level, the East end of the slab should have been retained in order to comply with the slab design.

The drive through garage is not usable as a drive through garage.

Home Warranty Insurance

You advised I should follow up with Strategic Claims Solutions on why I have heard nothing on my claim against _____

I will CC to you the e-mail to the insurer along with a copy of the claim form and Fair Trading's ratification of the policy.

Brickwork

You observed many of the issues of the brickwork including several cracks.

The brickwork sits on a raft slab and should not be subject to differential settlement because of the drought / reactive soil.

I have now checked with my neighbours on either side and they have no cracks in their brickwork.
My brickwork is only 6 years old.
My Eastern neighbour's brickwork is about 13 years old.
My Western neighbour's brickwork is about 26 years old.

(Traded as)

You advised I should follow up concerning outstanding materials from the contract to supply the Kit Home.

I advised I had no means of direct contact with except their Post Office Box.

I also advised I had FAXed and sent a registered letter to requesting quantities of outstanding materials in September 2005.

This has not been forthcoming.

I also advised I had complained about 's false and misleading advertising and their requesting full payment before any goods were supplied.

I also mentioned they falsified their books to make it appear they had not required payment before supplying any goods.

I advised the previous Ministerial reply failed to address or act on breaches of several Acts.

I will reforward my complaint to the Minister, asking why breaches of the Home Building Act, Fair Trading Act and Trade Practices Act have not been acted on. This is still within the 7 year time limit.

All up, you have made clear that the Home Building Service is there to provide mediation and where mediation does not occur, it cannot provide remedy or compensation.

I will write to the current Parliamentary enquiry detailing what licence holders have done to me and advise that breaches I have fallen victim to, should lead to immediate suspension / cancellation of licence. Consumers should never have their homes / livelihoods put at risk by dodgy licence-holders. Holding a licence is a privilege, not a right and should NEVER be used to victimise consumers.

Thanks for coming out today.

Sincerely,
Chris Fitzgerald

From: Chris Fitzgerald
Sent: Tuesday, 31 October 2006 12:18 PM
To: Norman.foster@oft.commerce.nsw.gov.au
Cc: 'Richard Amery'
Subject: Your Reference 11340 C2005/2954 -Meeting/Inspection Part 2

Hi Norm,

Further to last night's e-mail.

Level of the Slab

Attached is a copy of the the front elevation of the plans. This has been in previous letters and I showed you a larger copy yesterday.

As the elevation is part of the plans submitted to council, they form part of the contract.

Clearly the garage floor level is shown close to existing surface level. There is no 1metre embankment, 600mm batter or retaining wall indicated.

Also, attached are the notes from the Slab Design plan. You'll observe that Note 10 states:-

"Top of filled embankment to be not less than 1.0m from edge of slab.

Filled embankment to be suitably retained or battered off at a stable slope and protected against erosion."

This treatment is clearly not indicated on the plans, and has not been complied with.

The slab as constructed does not comply with the house plans or the Slab Design Plan.

As I may end up in Supreme Court now about
Minister's letter could refer to their unconscionable conduct.

, I would appreciate it if the

Brickwork

I mentioned to you about
Tradesmen Available.

False and misleading advertising, in particular "*Reliable*

I forgot to mention that their bricklayer had had a \$96,224 insurance claim against him in 1997. No-one knowing this would have had him working on their home.

Thanks for you help.

Regards,
Chris