

**Submission**

**No 1**

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

**Organisation:**

**Name:** Mr Robert Siebert

**Telephone:**

**Date Received:** 16/10/2006

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**Subject:**

**Summary**

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

## **Executive Summary**

This submission to the Parliamentary Inquiry into the Operations of the Home Building Service addresses the six (6) items raised in the in the Terms of Reference and provides detail on my experiences in having a home building matter resolved.

Within Building Licensing System suggestions are made consistent with philosophies that all builders contracting to homeowners should be properly qualified as assessed through formal assessment.

All building work should be insured to indemnify the homeowner in accordance with the Home Building Regulations. There are issues with home warranty insurance, which arise from the limited cover (\$200,000) of insurance policies. Although complying with the Act such policies do not comply with the Regulations and do not indemnify the owner. Insurance policies should provide unlimited cover.

There are significant issues with the resolution of complaints. They stem from the conduct of the Tribunal and the Tribunal being misled, making errors at law, making breaches of the Code of Conduct of Members, denying natural justice and making simple errors. Although required by their Code of Conduct to have knowledge in substantive matters before the Tribunal, Members do not have this knowledge and get it wrong. This undermines efforts taken by the Home Building Service on behalf of homeowners. My submission includes specific examples and evidence for the five (5) items claimed.

Due to the actions of the Tribunal some builders and some solicitors treat the disciplinary regime as a joke. The barriers to the exercise of disciplinary powers are enormous and enhanced by the Tribunal. My submission includes the details of my

situation with evidence of how the actions of the Tribunal will allow a builder will use the principle of *res judicata* to prevent a successful "Show Cause" action being taken against him.

The establishment of a Home Building Advice and Advocacy Centre is a good idea but will fail if the issues with the Tribunal are not resolved. The Tribunal, if it continues in its present position, will undermine the Centre and the Centre's efforts to assist homeowners will fail.

My experience in trying to have a home building matter resolved has resulted in me being placed in a position where

- I am in breach of the EP&A Act due to actions of the builder and no damages have been awarded to rectify this situation;
- I now have a house in which I cannot live nor can it be provided with a certificate of occupancy and I cannot afford to fix it.
- I cannot afford to appeal the decision in the Supreme Court even though there is ample evidence of denial of natural justice, errors at law, breaches of Code of Conduct and the like.
- If I sell the house as it is I will be left in debt without a house or the land.
- This situation has occurred due to the performance of

and performance of the Tribunal in hearing my matter. I am the innocent party but the one left in an untenable situation. The builder, and of due to the principle of *res judicata*, will not subject to any disciplinary or punitive action.