

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

Organisation: Building Action Review Group
Name: Ms Irene Onorati
Position: President
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Date received: 16/12/2006

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



BUILDING ACTION REVIEW GROUP, INC.

Associated with Property Owners' Association NSW

SUBMISSION TO

**THE GENERAL PURPOSE STANDING
COMMITTEE NO. 4**

into

**THE OPERATIONS OF THE HOME
BUILDING SERVICE**

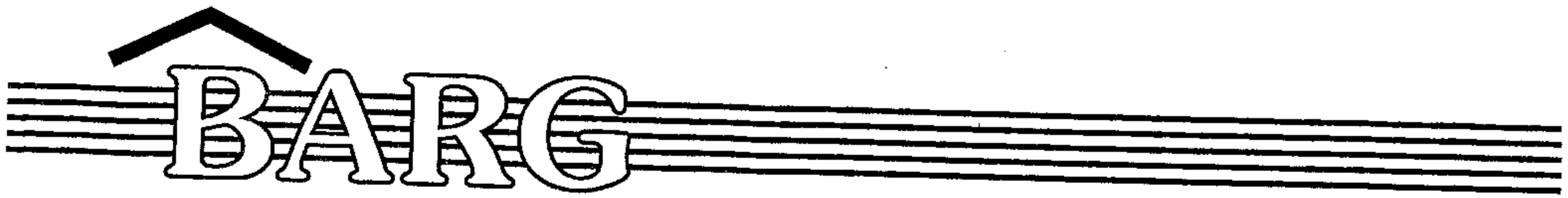
by

**BUILDING ACTION REVIEW GROUP INC.
(BARG)**

November 2006

Addendum Vol. 3

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BUILDING ACTION REVIEW GROUP, INC.

Associated with Property Owners' Association NSW

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GPSC's

**Addendum to BARG's Submission lodged to the
General Purpose Standing Committee No.4
Inquiry into the Operations of the Home Building Service**

Further to BARG's original submission (volume 1 & 2) we wish to lodge an addendum (volume 3) and request the Committee to please:-

1. Retract the "Private and Confidential" endorsement from BARG's above submission to facilitate a meaningful discussion with key individuals and organisations etc.

As BARG was not given the right to reply, we believe that we must clarify certain important issues to set the record straight in an effort to assist the Committee Members to assess appropriately the true facts.

Although we appreciate that the Hon Jan Burnswoods at page 24 of the transcript of the proceedings stated:-

"...I think myself and Mr Donnelly, can I point out to everyone that no question was raised at all about Mrs Onorati's integrity or anything else."

we must clarify and stress emphatically by re-iterating that:-

2. BARG is a **non-profit**, voluntary organisation and it does not lodge Tax Returns as testified at page 16 of the transcript of the Proceedings

This is a very well known fact to all, especially to Members of the Government.

We decided to table some of the documentary evidence in support of our claim i.e:-

- **28/10/1990** The Hon. Bob Carr, Leader of the Opposition opens BARG's Defective Home Exhibition. (refer to attached photograph) - Attachment 1
- **19/11/1993** Mr. R. Amery Hansard, 2 pages (Government should support BARG). - Attachment 2
- **24/2/1994** Media release Mr. R. Amery, Shadow Minister for Consumers Affairs. - Attachment 3
- **1/3/1994** In line for award Richard Amery MP nominated BARG. - Attachment 4

- **23/3/1995** Parramatta Advertiser Boral bricks made donation to BARG - Attachment 5
- **4/1994** Certificate of Recognition to I Onorati by the Hon J McHugh MP Federal Consumer Minister - Attachment 6.
- **1/6/1995** Testimony by John Murray, BA MP - Attachment 7.
- **12/3/1995** News cutting (Mr & Mrs A. Rubino - house demolished) **Not on Mr A Frasca's recommendation but on the recommendation of another engineer.** Mr. R. Amery officially opened this Defective Home Refer to photo. - Attachment 8.
- **7/8/2000** letter from I. Cohen. The Greens will use every opportunity to assist people who have been disadvantaged... - Attachment 9.
- **31/5/2001 Mr Watkins (Minister for Fair Trading)** in the second reading of Home Building Legislation Amendment Bill, "extends special thanks to BARG...their input is most valued and ..." - Attachment 10.
- **5/5 /2001** News cutting – Mr. Vogels – Renovator from hell (house demolished) Attachment 11
- **21/6/2001 Mr Watkins acknowledging publicly the fine work that Irene Onorati has done on behalf of many people throughout Sydney...** - Attachment 12.
- **8/7/2001** Hon Richard Jones, hansard BARG is a collective of individual home owners that runs a **purely voluntary basis with little funds...** **And the Hon Dr Arthur Chesterfield-Evans** congratulating BARG Attachment 13.
- **9/5/2002, N.H. Janette** – notes of thanks.
- Also Defective Home Exhibition No 19 Opened by the Hon J Aquilina former Fair Trading Minister refer to - Attachment 14 (photo)
- **11/12/02** Extracts of 52nd Parliament – comments from Dr. Peter Wong, Dr. Arthur Chesterfield-Evans and Hon Ian Cohen. Refer to Hansard - Attachment 15.
- **June 2002**, Report for the Ministerial Council on Consumer Affairs by Prof. P. Allan. (6 pages) "outside NSW there is no organised consumer lobby group...**BARG, the NSW lobby group, would not survive but for the existence of a self-funded (Ms Irene Onorati) and a group of dedicated** members with strongly felt grievances about their own building experiences.

1. Investigate BARG allegations
 2. Require high rise insurance
 3. Dispute Resolution timelines
 4. Ensure that qualified and competent personnel perform all home building jobs. Attachment 16
- **10/12/2002, Extract from Democrats re: establishment of the Home Building Advocacy Centre. - Attachment 17**
 - Martin Bonsey, Official Secretary to the Governor-General confirms to Mrs I Onorati the award of the Centenary Medal. The citation reads:-
For the services to the Community – Attachment 18
 - **9/4/2003, letter from John Howard congratulating Mrs I Onorati on being approved for the award of Centenary Medal.**
 - **I do by this warrant award to Irene Onorati the Centenary Medal. Whereas her Majesty the Queen Elizabeth the Second, Queen of Australia, has instituted an Australian Medal to commemorate the centenary of federation of Australia**
Attachment 19
 - **30/4/2003, letter from J. Murphy, Federal representative, delighted invites Mrs I Onorati to attend the presentation ceremony for the medal that honours her contribution to the Australian Community. - Attachment 20**
 - **1/5/03, Senator S. Macdonald congratulations re. Centenary Medal**
Attachment 20
 - **8/5/03, Mayor Angelo Tsirekas, City of Canada, re: Centenary Medal**
Attachment 20.
 - **23/12/03, Mr Lindsay Le Compte, General Manager, Home Building Service, letter to thank BARG for the invaluable assistance to him**
Attachment 20.
 - **26/7/04, Mr M.& Ms G Smallcombe from San Francisco CA USA appointed BARG to act on their behalf for their house in NSW.**
Attachment 21
 - **2005, Letter of recognition from Mrs. N. Scuderi. - Attachment 21**
 - **6/2005, letter of thanks from Ms. Lydia Chakouch. - Attachment 21**
 - **2/07/2005, letter of thanks from Mr. Gerard Nicol. - Attachment 21**

- **30/6/2005**, The Hon. Peter Breen,. BARG as a non-profit organisation. I would consider BARG to be a worthy recipient...” - Attachment 21
- **1/07/2005**, Extract from Joint Select Committee on the quality of buildings on 19/03/02 (comments from Ian Cohen, Rev. Fred Nile, Richard Jones, Helen Sham-Ho) - Attachment 21
- **01/07/2005**, extract from Google- Irene Onorati. - Attachment 21
- **News cutting – Mr & Mrs M. Pedlingham (St. Clair couple)**
Attachment 21
- **a few news cutting** regarding the bad experience of building a house by shonky builders. - Attachment 21

3. Please find enclosed copy of Mr Sal Russo, BARG’s honorary solicitor Statutory declaration in relation to the contents of BARG’s Quarterly meetings with HBS. Refer to BARG’s Submission page 8 and page 10 second paragraph. - Attachment A

4. In relation to the structural Engineer Mr Alfred Frasca and Associates, The Hon Jan Burnswoods at page 20 of the transcript of the proceedings stated:-

“ My information is that Mr Frasca costs between \$11,000 and \$17,000 and some people would say that it is a lot of money for people with a building problem to pay. In addition to that, it seems from looking at the submissions and the detail, that his reports almost always or usually recommend the total demolition of a property. Would that be true?”

Mrs Onorati answered:- **“not always”**.

(unfortunately, Mrs Onorati was not allowed to continue to provide the evidence of the facts as occur, nor sadly enough, was she permitted to call the BARG members present sitting in the room to testify as the relevant witnesses to reply and satisfy the above question).

Once again, to assist the Committee Members and clarify the issues, we submit better and further particulars of few case-studies, as examples to demonstrate the true facts:-

- The cost for a report is a direct transaction between Mr Frasca and his clients (as it is with any other consultants). We understand it varies, depending on the extent of time and investigative/exploratory work any consultant has to do for the particular job.
BARG has no involvement whatsoever with the cost of reports.

- BARG is aware, from BARG members case studies, that an expert consultant often is requested to carry out further additional inspections and assessments during the protracted delay of a dispute and to assess if any deterioration has occurred during the span of time. Therefore, additional reports are prepared, according to the circumstances.
- Not all BARG members have lodged a submission to the General Purpose Standing Committee No 4 Inquiry into the operations of the Home Building Service. Therefore, the assessment by the Hon J Burnswoods, as stated in the above question “...*from looking at the submissions and the detail, that his reports almost always or usually recommend demolition of a property.*” It is not an adequate and correct assessment.

We must re-iterate that most definitely, it is not accurate, as stated that ‘just from looking at the number of BARG members “submissions and the detail” before the Committee Members. As you can appreciate and please, verify, this is not the full spectrum of BARG members to enable anyone to draw such an analysis and/or deduction.

- Most, if not all, BARG members, obtain reports from several expert consultants on their own volition. It is their own choice, prerogative and decision.
- Not every BARG member commissions and obtains reports from Alfred Frasca and Associates.
- Alfred Frasca’s and other consulting engineers’ reports, in many instances have been accepted by HBS inspectors and their recommendations in many cases have been upheld by Local Councils, Insurers and HBS General Manager Mr L. Le Compte. Refer to the following examples.

BARG efforts are in assisting consumers in the preparation of their files with chronological and relevant attachments for their solicitor, CTTT, HBS/OFT etc. Please refer to BARG members’ statements and/or submissions (at least the ones before the Committee).

FEW EXAMPLES:- (At random)

EXAMPLE 1. Mr & Mrs Vogel,

– Second floor addition

10/3/2000 - Alfred Frasca’s latest additional report dated 18/4/2001 (4 pages) attached herewith for your assessment. This report demonstrates that several inspections were carried out from 19/2/2000 to 14 April 2001 and his recommendations were:-

- a) **that immediate measures be undertaken to provide approved temporary**

- propping to the northern wall and the garage and the store room.
- b) **immediate measures be undertaken to demolish the garage and store room walls and roof. Refer attachment B**

On **5 May 2001- the** Garage collapsed (thank God it occurred during the night, crushing only the contents in the garage) Council also had ordered demolition. The house was fully demolished and covered by current affair. \$200,000 maximum insurance was paid out, but this was eroded by the protracted delay and CTTT/District Court legal and experts' costs. (no submission has been lodged to this inquiry)

EXAMPLES 2. Mr and Mrs Frantzis, - Renovation
kitchen/bathroom/laundry (victims of 3 builders-original plus 2 rectifying builders)
Mrs Frantzis now needs a 4th builer. Although, she had obtained previous building consultant's report she needed to commission a structural engineer. A victim of **13 years**
Refer submission lodged to this inquiry.

- **30/9/2001 – A Frasca's report findings:-**

“ The constructed works do not match the council approved amended architectural plan at some locations The amended council approved architectural plan does not provide any details with respect to the occurrence of a common sewer line known to be located at the rear of the property. Council B/A conditions of approval Nos 1,2,3,4,8 have not been satisfied by the builder during construction. We note that the owner still has not had a satisfactory final Council inspection. Refer to Council letter dated 24 August 2000 Attachment C

Mr Frasca's recommendations:-

The rectification works for the building shall be carried out in accordance with architectural and structural plans prepared by suitably qualified architectural consultant and structural engineer.

The existing building works, including the support footings, ground floor concrete Slab and inner leaf brickwork construction shall be certified by a practising Consulting structural engineer.

The builder shall comply with all the outstanding council conditions of approval etc.

On the **14/2/2004**, Mr. L. Le Compte, former HBS General Manager, sent a letter confirming that the Fair Trading Administration Corporation is **prepared to meet the cost of demolition and reconstruction** (up to a maximum of \$100,000). After 3 years the HBS approved demolition and reconstruction. Please refer to Mr and Mrs Frantzis submission to assess up to date's developments and conduct of HBS and HOW insurance. Attachment C.

EXAMPLE 3. Mr and Mrs. Colin Campbell –
floor addition.

– second

12/12/2002 – Alfred Frasca Report. Please note this consumer had 8 reports, these are listed in Mr Frasca's letter of 19/2/2003. Mr Frasca in this letter demonstrates that there is no benefit or purpose in rectifying the building if unconditional structural certificates cannot be issued. And recommended demolition and reconstruction. Refer attachment D

On 5/1/2004 Mr Rod Elliott, HBS - Director of Insurance Services Building Insurers' Guarantee Corporation determined that Mr Campbell is to obtain quotation for demolition and reconstruction of the extension. Refer Attachment D

EXAMPLE 4. Mr Charlie M Ai Tran -

First Inspection 12/7/2003. A. Frasca 41 page Report – 22/9/2003

further inspections on 31 May 2005, January 2006 and 30/8/2006 Refer A. Frasca Supplementary Report conclusion and recommendations:- **It is evident that the cracking is not only continuing to occur, but is also increasing in width. Therefore, we recommend that the building be monitored at regular six monthly intervals to determine if any further building movement is continuing as this is a safety consideration for the building and the occupants. Attachment E.**

On 6 November 2006 the Fairfield City Council issued an Order stating “..there has been structural distress observed with substantial cracking to the internal walls. The premises are not in a safe condition and need to be made safe for the occupants. Refer Council order also attachment E

N.B. The builder is _____ Licence No _____ – same as Mr A. Le Bon hereunder.

EXAMPLE 5. Alex Le Bon.

Engineer commissioned was not Mr A. Frasca

Clark Engineering Consultants Pty Ltd. 12/11/2004 – issued a report. The building has significant structural problems, the problems emanate from the footing system which we believe is inadequate for the geotechnical conditions applying on the site. Reference to the Code shows that the waffle slab raft is not deemed-to-comply system for a full masonry building...the movement are clearly large, the damage severe and the solution complex.

We were advised by Mr Le Bon that Liverpool City Council issued an order stating the house is unsafe Mr Le Bon is moving out. Refer to Mr Le Bon Submission. The Builder is _____

EXAMPLE 6 Mr & Mrs Hartzenberg –

Engineer commissioned was not Mr A. Frasca

Capaldi King Building Consultants – issued a report on 28 May 2004 which States:-

It is not recommended to use a waffle raft system on a full masonry structure with concrete slab. The entire area taken by the ground floor of the building should have been piers to ensure the building is bearing on similar and uniform foundations. It is required that _____ to satisfy the construction method by providing details on piers, their bearing, depth, Diameter, location and concrete used. It is also required that a certificate be provided by either Local Council, PCA or the Structural Engineers sighting of the piers prior to filling with concrete.
N.B. Structural Plans in Example 4, 5 & 6 are designed by the same engineer employed by the builder,

All 3 examples, although have 3 different independent expert consultants, in the assessment of the defective works, all 3 agreed and concurred to the structural inadequacy of the buildings and the reasons why. In case 4 and 5 Council has issued orders. This case as we have already mentioned in our submission at page 54 the owner is critically ill and is hospitalised

N.B. The situation which is of greatest concern is that the builder ‘ _____ ’ has now allowed his licence to expire. On 13/3/06 applied and obtained a new licence for a new company _____ Licence No _____

EXAMPLE 7 Mr & Ms A Falzon – _____ NSW.
2nd Floor Addition.

On 26/6/02 the owner entered into a contract with licensed builder “ _____ ” to build a second floor addition according to the D/A approved plans and council conditions of consent, within 6 months.

A family of 6, (4 children school age) have been living in a 2 bedroom incomplete and defective building ever since and are suffering.

HOW Insurance Certificate was issued. Mr Falzon paid \$2,372.00 premium.

A dispute arose in relation to defective work. The builder abandoned the site and lodged a claim to the CTTT to recover contract payment.

The CTTT dispute has been going on for over 2 years. Conclusion of the matter very damning, Mr and Mrs Falzon have been sent into bankruptcy by the builder. It is to be noted that this occurred prior to Mr Falzon’s cross claim for defective work was heard and adjudicated by the court.

This family may be homeless by Christmas. We are not aware if a submission has been lodged as yet to this inquiry. (Both husband and wife have full time jobs, Mr Falzon’s health has been badly impaired by the above events.)

On 3/12/2003 Mr Falzon lodged a complaint against the licensed builder with the HBS attaching relevant reports.

A. Frasca's First report dated 16 May 2003.

On 28 May 2003 a letter from Mr A Frasca referring to the Appraisal report dated 16/5/03 and reports by others. Based on the findings rectification of the constructed work cannot be recommended. The existing alterations and additions shall be demolish and reconstructed. - Attachment F.

Additional inspections were carried out on 2/2/04, 20/11/03, 19/6/04 and Supplementary Building reports were issued and are attached on the supplementary report dated 4/10/2005. Attachment F

Mr Falzon obtained 14 reports by different expert consultants in an effort to prove the continuous defective work emerging. Emphasis on the NSW Forest report condemning the roof etc. (which is a health hazard endangering the life of the inhabitants) Refer Attachment F, Falzon's letter dated 21/09/05.

In this example, we wish to concentrate and discuss the Home Building Service Inspection report. We request the Committee to please examine the HBS conduct and assess **whether** the action taken by the HBS has been appropriate and according to the HBA

On January 2004 – Mr Peter Stubbs, HBS inspector carries out an inspection of the building works. The owner wrote to the HBS advising new defects and providing supplementary reports.

On the 6/8/2004 the HBS commissioned an independent building consultant Mr John Lewer instructing him to review Alfred Frasca's report 16/5/03 and Peter Stubbs report dated 19/7/04. We attach copy of Mr J Lewer's report dated 8 December 2004 **Attachment F**

Please note that since 8/12/04, the issuing of this report, 39 pages very damning report, no action has been taken to discipline the breaches and non compliances by the licensed builder, up and until August 2006. (20 months later)

Emphasis to the disciplinary penalty 6 months disqualification of his licence.

Is this penalty adequate? In comparison to the breaches, non compliances and misconduct by this licensed builder?

We request the Committee to please examine and assess Mr John Lewer's report. The expert commissioned by the HBS to assess and review Mr A. Frasca's report.

Mr Lewer's report was provided to the homeowner on 6/4/06, only after BARG requested officially at the Quarterly meetings with HBS – why isn't HBS providing copy of inspection reports to homeowners? Refer to BARG minutes and HBS notes of 1/3/06.

N.B. Mr John Lewer, is a consultant commissioned and instructed by the HBS:-
“ to review and provide an opinion of the work, particularly where the writer’s opinion may differ from those expressed in both the reports provided”. (being **1. Alfred Frasca and 2. Peter Stubbs.** Refer to page 5 of this report.

We draw the Committee Members’ attention to the following:-

Point **4.0 FINDINGS (aligned to Mr Frasca’s numbering) at page 10**

4.1 Brickwork

4.1.1 Mortar Joint Quality

a Mr Frasca’s observations are correct.

4.1.2 Mortar Joint thickness at page 11

a Mr Frasca’s observations are correct.

Similarly in Mortar Match a) Mr Frasca is correct (page 14)
Wall Ties a) Mr Frasca is correct etc

4.1.7 a Mr Frasca is correct. And b

4.1.8 a Brick Veneer overhang – Mr Frasca rightly point out that... Pg.15

4.1.9 Garage Brick Wall overhang – page 17

a Mr Frasca’s description of the overhang is substantially correct

4.1.10 Weep Holes

a Mr Frasca’s observation is correct – page 17

etc. etc. pages: 18, 19,20, 21, 22, 23, 24, 25, 28 30,31,32,33 etc

It is very interesting as Mr Lewer concurs with Mr Frasca in practically all defects, especially in the Structural issues at page 32, 33 etc.

The summary pg 36 - 37 lists the many items that represent those defects raised by the experts that are proven to the writer’s satisfaction and at

8.0 OPINION – page 37 – 38 it is stated:-

a “...the deck slabs must be removed and rebuilt for this reason alone. But there are other reasons also which are listed and please refer to:-
i and ii

b *i, ii and iii, c and d*

h *It is recommended that:-*

iii “ the builder, the bricklayer and the concreter should be asked to show cause why their licences should not be revoked”. (p 38)

At page 39 – emphasis on:-

iv A course of advance training be instituted that will bring the inspection staff to a level of expertise commensurate with the responsibilities.

Mr Lewer's above comment and recommendations in relation to the HBS/OFT inspection staff that "***a course of advance training be instituted that will bring the inspection staff to a level of expertise commensurate with the responsibilities***" is very appropriate, extremely urgent and more importantly must be taken in consideration as the damning effect that had on the Falzon's family, and can continue to have on other innocent consumers livelihood. We question whether is only due the expertise or is it also bias?

Another current case where Mr Peter Stubbs has been the "principal inspector involved is the one of Mrs Kalavati Magan where he stated that "there is no evidence of defective work" at all. Please refer to Mrs Kalavati's submission,

We must concentrate here on Mr Peter Stubb's assessment on the Falzon's property as reviewed by Mr John Lewer, which is of greatest concern.

The HBS former General Manager, Mr L.Le Compte had some doubts as he so fit to commission Mr John Lewer, another independent expert consultant to review this report. It is evident that Mr Lewer did not take it too lightly, he found at least 34 instances (we assessed) where Mr Stubbs has either "**accepted the builders excuse, and in other places the builder's idea**" Refer page 12 (d) e (i) (iii) 4.1.3 a
Page 13 - c, page 14 - d, 4.1.7 - b and c,
Page 17 - 4.1.10 – b. etc, etc. we marked the relevant point with a cross.

And finally the last paragraph in

- i This report does not comment on council matters which may more properly be directed to the Department of Local Government or the Department of Infrastructure, Planning and Natural Resources.**

Has the HBS considered this report and taken any action as recommended?

NO! The documentary and visual evidence speaks for themselves.

It is of greatest concern and a sad commentary to realise that another innocent family of 6 has been completely destroyed only because they have trusted the LICENCE of a BUILDER believing he had the skills and qualifications to build according to the relevant laws, and had relied completely on the OFT/HBS thorough check of his qualifications prior issuing or renewing his licence and to enforce appropriate, timely and commensurate disciplinary action.

This family is a victim not only of the licensed builder, but as demonstrated by the documentary and visual evidence of the statutory regulatory authorities. With due respect we must ask the Committee Members, if it is within their powers and/or

jurisdiction to recommend that appropriate investigation be undertaken into at least 10 BARG case studies (as Prof Percy Allen recommended in his report refer to attachment 16 of this document).

BARG has no time nor the resources to appropriately provide to the Committee with more detailed documented case studies.

EXAMPLE 8 - Rob Siebert –

Mr Siebert is an employee of the Department of Commerce. We have been advised from Mr Siebert that his house has been recommended for demolition by his engineer in Lismore – **Not Mr Frasca** As evidenced in his submission, Mr Siebert and his young family, after 3 and a half years the house should have been finished and 2 and a half years since he lodged the dispute with the Tribunal, he has now a house in which his family cannot live nor can it be provided with a certificate of occupation, even after the repairs identified by the Tribunal are completed. He spent \$90,000 on legal cost and rent. The cost to demolish and rebuild his house is \$495,000. This is another innocent family completely destroyed for no fault of their own. Please refer to his submission to the Inquiry.

This is a further case that demonstrates that it is not just Mr Frasca who must order demolition when a house does not comply with the relevant legislative and regulatory provisions.

EXAMPLE 9 – Yasmin Fakhri –

22/5/2006 - A Frasca Report - the building work completed to-day is illegal as the work has been carried out without council approval, without construction certificate prior to commencement of work, without any critical inspections by PCA and the issue of a structural certificate by a structural engineer as required by EP & A Act.

Mr Frasca's recommendation is that a site meeting be held with Ku-ring-gai Council so that council can assess and determine that the building works as constructed are illegal and issue appropriate orders regarding the illegal and non complying construction works as built do date.

On 1 August 2006 – Ku-ring-gai Council issued a Notice of intention to serve an Order that pursuant to Environmental Planning and Assessment Act 1979 (Section 121H0) will require to demolish the unauthorised work. Refer Attachment G

As evidenced in the above examples the relevant legislative and regulatory provisions are breached and are not complied by the licensed builders. The Regulatory Statutory Authorities do not enforce the prescribed laws and this is the reason why builders continue like 'King Herod in *the massacre of the innocents*'. The strictest laws are worthless if not enforced.

We hope to have clarified and assisted further the Committee Members with this addendum. Any further information can be provided on request.