

**Submission
No 40**

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

Name: Mrs Helen Stanojevic

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Mrs Helen Stanojevic

6th November, 2007

**General Purpose Standing Committee Number 2
Parliament House
Macquarie St,
SYDNEY NSW 2000**

Subject: Inquiry into the Operations of the Home Building Service

Dear Madam Chair and Honourable Committee Members,

I was a speaker at the Public Forum held on the 2nd November, 2007 from 10:00am to 12:15pm.

Please consider enclosed with this letter a longer version of my speech.

**Yours Sincerely,
Helen Stanojevic**

Speech - Helen

Madam Chair. Honourable Members of the committee. Thank you for the opportunity to address this inquiry.

My name is Helen Stanojevic, and I am a mother of three.

Here I am standing before you holding what I am surviving on. Prescribed medical injections. I truly think that I am a different person since the decision was made to build our home. I had no idea that a brand new home could cause, and continue to cause, so much physical, emotional and financial pain to my family. Presently, I stand before you, with an application in the CTTT still ongoing. The following is a brief summary of the events that happened to us, and led to our application to the CTTT, and how our anticipated Australian dream of building our home has turned into a nightmare.

Five years ago I decided to build our home. Before we started, we made sure that we followed all the normal correct procedures. The Builder advised us that he had a license and that the licence was current. We had received all the brochures from the builder telling us that our house would be something that would last for a lifetime and that we would be proud of. We had visited all the display villages and had selected the house that we wanted built. Even more reassuring was that we saw the house at the display village, and that the builder we chose is the largest and most respected builder of project homes in NSW. My family was looking forward to living happily in this new house. That did not happen, otherwise I would not be here today.

We signed the building contract in November, 2002 and in July, 2003 our house was completed. The Builder requested final payment and we paid the final payment. At settlement time we were not aware that the builder had not obtained an Interim or Final Occupancy certificate. My contract with the builder said that we should have been supplied with this. I was absolutely shocked. I since discovered that the inspection had failed, and there was no Interim or Final Occupancy certificate. And that the builder was aware of this before they took our final payment. After settlement we were provided with the keys and moved into the house.

A few days later when no one was home, and unbeknown to us, the builder sent a brick cleaner to our home. The outside of our newly built home was brick cleaned with all sorts of chemicals. The sad part of this was that I arrived home towards the end of the brick cleaning process and couldn't believe my eyes. I tried to stop it but I couldn't. I couldn't prevent the mud, mortar, acid and chemicals entering our new house. The builder performed the brick cleaning process after settlement and this was against the documentation that he had supplied to us saying that it would be done before settlement, in an early phases where damage could not be caused. Our new house was dripping with water and acid on the outside, as well as on the inside where some of the water and acid had penetrated. Due to this brick cleaning activity the termite barrier protection had been breached and I had to arrange for the termite application to be re-done.

Shortly after settlement, when it was raining, I noticed that water was entering our house. I was very upset by this. There was water running down three of the four internal walls of one room. I took digital photographs of the water entering the room. The water was flowing down the internal side walls of the room and ponding on the floor. A few months following this I was again extremely upset that water had entered the room again. The penetrating water from the roof caused a large part of the gyprock ceiling to collapse. The area of collapse was approximately 2 metres by 1 metre. This revealed multiple streams of rainwater flowing through the roof, onto the rafters, and pouring through the hole in the roof. I was very worried by this because the large hole was very close to the electrical light in the ceiling.

There were obvious defects with our house.

Despite calling the builder, and writing multiple formal letters, no resolution occurred. In fact our builder sent us in return a letter saying that we should not be communicating over the telephone, and that all communication must be written. They also wrote to us, and warned us not to speak to any one about our issues otherwise we would be taken to court. I was scared by this.

My concerns were ignored.

Our three months maintenance warranty was completed by my husband and sent to the project builder. Till this day our three months warranty has not been fulfilled.

The construction of our house left open holes between the eaves and the roofs, so big that normal size birds can enter freely. My children contracted bird lice because the birds were able to enter through the holes and build their nests.

My family was suffering physically and emotionally from the worries with our house. It was obvious to us and anyone who visited the house that the builder had made some terrible mistakes. We were so frustrated that the only letters we ever received from them were from their legal department manager.

I was desperate and not knowing what to do, I submitted a complaint to the Department of Fair Trading Application on the 20th October, 2003. An inspector from the Department of Fair Trading came to inspect our house on the 8th December, 2003. The inspector listed approximately 29 defects. Whilst inspecting the premises he advised us that we refer the matter to the CTTT for assistance.

We proceeded to arrange for independent experts to assess our defects so that we could apply to Consumer Trading Tenancy Tribunal as we had been advised by the inspector. We initially paid for four independent reports to be produced by four separate building consultants. Each independent report highlighted multiple building defects. Our consultants were all found by looking up the Sydney yellow pages.

We then lodged an application with the Consumer Trading Tenancy Tribunal on the 15th February, 2006.

Since that time our application to the CTTT is still on-going. Up until the current date we are continuing to pour out our life savings to get reports, get legal advice, and attend CTTT directional hearings.

After approximately 15 months in the tribunal, the builder offered us a settlement deal on 18th May 2007. The settlement involved the Builder offering to pay us \$7,500 towards

our legal fees, even though our legal fees had reached close to \$30,000. More importantly, the settlement involved us signing a Deed of Release. We were tempted to settle after this long process to get off this roller coaster until we read carefully what the Builder had put into the settlement. And I quote *'The Builder says that the dwelling has*

been constructed in accordance with the owner's approved plans and specifications, and denies that it failed to carry out the work in a proper and workmanlike manner'. We felt that this particular clause was unfair and irreversible. It also said, and I quote 'The above settlement is in full satisfaction of all claims that the Owners may make against the builder in respect of the dispute and it will be a complete bar to any future action against the builder in relation to any damage or loss arising from the dispute.' We refused to sign this deed that was written by the Builder, because it was unfair, and it would release the builder from any responsibility. The Builder then referred the case back to the CTTT, requesting the matter to be listed for further directional hearings, and demanding cost for all CTTT Proceedings.

We have been recently advised that this deed offered to us was despicable and unconscionable. It was un-signable, and to make matters worse, the builder is one of the most respected builders in NSW. We have always been seeking a reasonable settlement, and a reasonable settlement has not been offered to us.

How does a Builder with a good reputation in NSW ask us to sign a deed like this?

We obtain independent advice from a NSW building consumer group that we found on the internet. We were advised to

- a) To check the Builders license through the internet.
- b) And whether the house was properly certified and had a final occupational certificate been issued. Unfortunately, we found that the house was not properly certified.

When we extracted the license from the internet we found that, and I quote

1. 'Number of external insurance claims paid: 6'
2. 'Number of statutory insurance claims paid: 3'
3. 'Penalty Notices. Section/S4,Act/HBA, Offence / Unlicensed contracting, Action/Penalty, Penalty/\$1500, Date/8 Nov 2006'
4. 'Number of tribunal orders not complied with: 2'

5. 'Supervisors: _____ with License number _____ was the nominated supervisor for this license 15/12/1992 up to and including the date of this certificate'
6. Last but not least: 'Exemptions. The holder has been exempted from the requirement in relation to nominated supervisors from 22/07/1992 up to and including 15/12/1992.'

Under the heading exemptions it says that the supervisor's exemption is valid only to 15/12/1992 This exemption has expired now. Who are the supervisors this company is using? It is noted this company builds hundreds of homes in Sydney every year. More importantly honourable members **Who supervised our house?**

I would like to ask you honourable members how can such a builder still hold a current licence? Had we known these facts we definitely would not have gone ahead with this project builder. It is clearly evident that 9 innocent homeowners have become victims previously, and two tribunal orders were not complied with. Also a very serious breach has been occurred. The builder has carried out unlicensed work and given a penalty of only fifteen hundred dollars.

Do you think honourable members \$1500 is a comparable penalty for a builder who has a multimillion dollar annual turnover. Another pertinent question which is important is; How did the Home Building Service renew the licence of this builder every year where such a record shows he is a repeat offender. If the Home Building service carried out their functions adequately my family wouldn't be caught.

CTTT resolution is a matter of great concern. We have been in the tribunal for almost two years. I was told that the legislation of the CTTT is inexpensive, expeditious, and informal. Quite frankly it is nothing like that, and I am a living example.

Why does the CTTT take years to process our application? This is not fair.

It was very important that we made sure that our house was constructed according to the DA Council conditions, BCA and Australian standards. Thus we have now commissioned an independent structural engineer who house found many further serious defects with our house. How can we continue to cope with this? This qualified

engineer performed exploratory works and carried out detailed investigations throughout our house. He discovered many items that don't conform to the stipulated building codes. The structural engineer, following his investigation concludes that, and I quote 'The concrete waffle raft slab does not comply with BCA and Australian Standards 2870'.

The builder's specification for erection of a brick veneer residence states:

'The work shall be carried out and completed to comply with the appropriate construction standards and the building Code of Australia (Housing Provisions).'

The piers and the ground floor raft slab cannot be appropriately certified as the works do not comply with the development consent and the Australian standards.

This made me worry whether our house was supervised during each stage of construction, and certified as prescribed by the Environmental Planning and Assessment Act. I would like to advise the committee that the builder used a private certifier. The PCA on our home was Essential Certifiers. A quote from the Sydney Morning Herald on the 21st June 2007 titled **building certifier at work despite fines**. It goes on to say, and I quote; 'Essential Certifiers has earned the most cautions, fines, and reprimands in the building professions Board register of disciplinary actions'.

I investigate whether I could use the Builder's insurance to rectify my problems. I checked my documentation and discovered that the home owners warranty insurance certificate of insurance provide to me had an issue date of the 5th July 2002. This was very unlucky for me as I was aware that in NSW after the date of 30th June 2002 no claims could be made upon the builder using this insurance unless the Builder has gone bankrupt or deceased. I double checked with the Vero that issued the certificates to the Builder, and to my surprise I was told by them, in writing, that these certificates were issued to the builder on the 6th June, 2002. This meant that I have a last resort and can lodge a claim.

I quote; from the letter Vero sent to me; 'Our investigations show

were issued a book of pre purchased home owner warranty certificates. The certificate above was taken from a book issued on the 6th June 2002, therefore we

consider this as the issue date. Therefore you are eligible to lodge a claim with Vero insurance' (end quote and it goes on) (here is a copy of this letter)

Even more importantly is the effect that this has had on my life. I feel like that I have aged twenty years, and that I have let my children down by not being able to attend to everyday family life because I am spending every breathing minute worrying about each CTTT meeting. The preparation time consumes all the time available which would normally be used for relaxation. I feel that I am in an endless spiralling loop downwards, with no light at the end of the tunnel.

I request this committee to please investigate our matter. Who is responsible for our family, and our losses?