

Submission
No 14

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

Name: Mr Larry Larstead and Ms Jan Olley
Date Received: 11 July 2019

Partially
Confidential

Re: Regulation of building standards, building quality and building disputes

11 July 2019

To whom it may concern,

First let me say that we have lost all faith in the rule of law and the agencies voted in or appointed to uphold them regarding building oversight in New South Wales.

We are a retired couple in our 70s, but In our youth we worked diligently to save and provide for ourselves as to not be a burden on our parents or on our government in the future. Now we have come to believe that the very regulations we thought were there to protect us are in fact working against us in our senior years.

I digress.

In 2010 we bought a brand new modest two bedroom home on a two Unit Strata property in Ocean Shores NSW. This was to be our family home for our retirement years. After paying around \$400,000 for the property this left us with just enough for an allocated pension which provides us with an income of around \$55,000 yearly. Just enough for the two of us to live comfortably. We employed a conveyancing lawyer in the transaction who produced a fully stamped final occupation certificate to show us that the property was in good order and had checked all the legal boxes. We thought that this was proof that the construction was built to legal standards and that we would have low maintenance in the near future.

How wrong it seems we were!

In 2016 a large machine presented itself at the upslope properties of _____ At a pool was to be constructed under code where we had no right to warning and a Granny flat was to be built at _____ very close to our boundary. The next day, I noticed a definite sag in the fence and retaining wall on the boundary. We immediately called the Byron Shire Council to come and look at it.

So began 3 years of Catch-22s, phone calls, emails, tears, heart attacks and stress related health issues. The conclusion of all of this was for us to discover that the existing wooden retaining wall was originally built NOT to code and NOT fit for purpose. Through freedom of information we discovered that there is no retaining wall engineering plans in the original DA. It seems a now defunct soil engineering company had cited a hand drawn plan from the Builder indicating a so-called 900mm Boulder Wall and therefore would not require a DA to be put through to the council. The private certification company who issued the final occupation certificate for our property and, oddly enough, is also the certifier for the swimming pool upslope, claims that he had no legal requirement to certify our retaining wall. Our council rejects any liability as they were not the certifying agency although they are the agency that certified that the land was suitable to become a strata property in first place even though they could readily see that excavation and a large retaining wall would be necessary to make that viable. We have also had to forgo expensive lawyers that tell us that we have little hope of obtaining any legal regress from anyone. The builder's mother, who is also the original developer as stated on the DA, says it's nothing to do with her and her son is financially broke anyway. We eventually found one builder who would quote and estimates a bill of around \$40,000 to make things right. The upslope owner at _____ seems not to be interested and not very helpful even though it is his side that is collapsing into ours. And finally, we received reply letters from our state MPs who tell us that they feel for us but are in the process of making new laws to protect people in the future.

Yes we're pissed!

In the meanwhile, the retaining wall is slowly coming down in our faces.

Sincerely,
Larry Larstead and Jan Olley