

Submission  
No 22

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

**Name:** Name suppressed  
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Partially  
Confidential

Dear committee,

I purchased a new apartment in 1998 in Surry Hills. I do not wish to state the address as not only do I still own the unit, but I believe that the other owners would not thank me for naming the building and potentially affecting their property values, as even though it is 20 years later, there is always that nagging feeling that there may be some very latent defect that hasn't been discovered. I thought I had done my due diligence as the architect was a well known reputable architect and the builder was a well known reputable builder which did work for the government as well as commercial and residential developments. The development consent and building approval were issued by the City of Sydney Council.

The building looked to me to be solidly build and had good finishes.

I was elected to the committee at the first AGM. We were lucky to have a very switched on engineer as our chairman of the committee and when some defects came to light we engaged an architect on his recommendation to go through the building and give us a report.

The following is a non exhaustive list of defects that were discovered:

1. Water penetration issues involving individual units and common areas.
2. Fire safety issues including with the fire doors.
3. Mechanical ventilation system to the underground carpark was so noisy the developer had turned it off. When the committee discovered this and turned it on, the Council issued us with a noise order.
4. Various issued with uncompleted work in units and common areas.

We had to engage consultants and lawyers before we finally got the defects rectified and had to sign a non disclosure agreement as part of the settlement.

I remember the consultant architect we engaged saying:

"I know this builder, it would never had done a job like this if it was a government building or a commercial client as it would not get any more work."

The story illustrates a number of points in what is a multi faceted problem and for which I do not believe there is any one "silver bullet" solution:

1. This building was approved before private certification so we can't lay the blame for the current situation wholly at the foot of the system of private certification (although that certainly seems to have made things worse).
2. Even "good" builders can produce residential apartment buildings that have defects.
3. There does seem to be a difference in approach of (many) builders to buildings for clients that will be repeat clients (like the government or commercial clients) and new residential apartment buildings where the ultimate owners are not identifiable at the time of construction and are unlikely to be "repeat" clients.

After my experience I vowed never to buy a new apartment again, and to tell everyone I could not to.

My final point is this. I purchased a new Hyundai a while ago and it came with a 5 year warranty. Most people would not expect a car to last more than 20 years.

And yet when you buy a new apartment it only comes with a 2 year warranty for minor defects and a 6 year warranty for major defects in circumstances where I would have expected the apartment building to last for at least 100 years.

Added to this is the fact that claiming under the statutory warranties for new apartment buildings is fraught with all sorts of issues, including but not limited to :

- 1.The builder does not owe the ultimate owners of the units a duty of care and there is no contractual arrangement between them..
- 2.There is no compulsory Home Owner Warranty insurance for apartment buildings over 3 stories.
- 3.The high rate of "phoenixing" of developers and builders in the residential apartment building sector.
- 4.The lack of information available to consumers about who are the "good" and "bad" developers and builders.