

Submission  
No 24

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

**Name:** Mr Richard Devon  
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Partially  
Confidential

I own an apartment in The Landmark, 215 Pacific Highway Charlestown 2290. Residential Strata Plan number 80605, and there is a 'co-owner', Commercial Strata number 80603. This nine storey building has recently been the subject of much publicity due to defects which were evident not long after its completion in August 2008 but not adequately addressed by the Strata Committee even though the owner/developer/builder (same person/companies) was on the Strata Committee at that time. Further, the private certifier, \_\_\_\_\_ of Dix Gardner, also the Lake Macquarie City Council as well as the Strata Managers, Lake Group Strata of Charlestown flatly refuse to make available 'as built' plans for this building. Essentially, Level 9, the top level, was subject to at least three changes in plans after the architects were dismissed, and the building company owned by the developer made these changes 'in house'. Notwithstanding this, no person or entity will supply these plans to myself and others who have requested them. The building, which was originally declared to be costing \$20M has in excess of \$4M remediation necessary, and mainly due to non-compliance with Australian Standards and manufacturer's specifications with the panels on Level 9. There are many other remediation issues on other levels.

With respect to the 2% Builders' Warranty Levy, this building with its defects shows with simple mathematics the inadequacy of the 2% levy. For instance, 2% of the declared \$20M building cost is \$400,000.00, yet the necessary remediation is in excess of \$4M. I believe that the 2% levy is not related to reality.

Because the Owners Corporation and its Strata Committee refused to take informed action against the owner/developer/builder, and some of this can be attributed to a lawyer who I believe was totally naive with respect to Phoenixing procedures, and because there is no necessity for insurance with developments over 3 storeys, owners in this strata are now massively out of pocket with essential remediation. Unfortunately there are only three of the fifty-nine residential owners who have aggressively tried to bring the situation to something approaching reality. The three of us have been repeatedly ostracized by the other 56 owners, and we have even been subjected to anonymous vindictive letters. Further, one of us three, (Unit \_\_\_\_\_ was found dead in her bed on July 7th 2019, and the cause of death is subject to an autopsy. \_\_\_\_\_ has been subjected to much abuse over the last three years, including two disgusting anonymous letters from declared other owners.

In attempting to enforce the Owners Corporation/Strata Committee to take all appropriate action both with respect to the responsibilities of the owner/developer/builder, two of us owners have endured massive legal expenses, and much of these costs can be directly attributed to the inadequacy of the Strata Committee with its knowledge of the Strata Act. We have also found that decisions given by NCAT are virtually unenforceable if the Strata Committee chooses to ignore the decisions. I am sure that other parties will relay this to you in their submissions, of which I am sure there will be many.

I have recently studied a book written by solicitor Gary Bugden explaining the legalities of the new NSW Strata Act which came in to being in November 2016. Whilst the legalities are explained, I believe that from my experience with the massive problems with The Landmark Building the new Act has no teeth with regard to remediation of new Strata buildings over three storeys.

I have collected much written details from my dealings with solicitors, barrister, NCAT, officers of the Lake Macquarie City Council, and local parliamentarians.

I respectfully ask that your committee interview me in person so that I can expand on the assertions I am presenting in this submission. Virtually everything which I read with regard to the 'Mascot and Opal' disasters, and others being exposed in the press, can be related to issues and happenings in our Landmark Building at Charlestown.

Overall, I can categorically state that it is virtually impossible to force any person or entity to take responsibility for the faulty building practices with high rise buildings in NSW. This includes solicitors who have not carried out adequate searches for clients, strata managers and real estate agents who are NOT declaring material facts (I have a file on local Newcastle/Lake Macquarie Agents involved with this) and most certainly various Owners Corporations and Strata Committee which decide to ignore urgent remediation and NCAAT orders.

The NSW government has been receiving massive revenue from Stamp Duty as residential units are firstly sold 'off the plan', and then resold, often on more than one occasion. Many purchasers, including myself, have been hoodwinked because of the non declaration of material facts, the farce with private certification, poor building techniques, uninformed, ignorant and sometimes vindictive Strata Committees which have been involved with a 'silent cover up' of building problems.

I look forward to meeting personally with your committee in the course of the inquiry.

Thanking you,

Richard Devon