

Submission
No 95

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

Name: Name suppressed

Date Received: 26 July 2019

Partially
Confidential

Builder & Certifier at the Landmark Building, Charlestown.

I am including some examples of defects which were certified, but were costly to repair.

1. The balcony of one unit was built higher than the floor of the unit. When it rained water poured in. The builder employed by the Owner's Corporation (OC) had to divert the water flow, remove & replace damaged walls, kitchen cupboards, floor coverings etc. Since late 2017 there have been no reports of water ingress.
2. Some units were damaged by water leaking down the walls. In the worst affected unit the mould was so bad that the owner had to seek medical treatment for affected lungs. The OC's builder found that the water ingress was due to poor workmanship on upper floor balconies which allowed water to flow down.
3. Wherever there are glass fronted balconies cracks have appeared in the tiles where the metal posts met the tiles. It was discovered that corrosion of the posts occurred where aluminium came into direct contact with concrete.
4. On the 9th floor one unit has 4 beams which support the roof, radiating from the lift. 2nd unit has 2 beams, 3rd ok., 4th has 1 beam. The adding of extra beams was costly.

Strata Committee (SC) relations with unit owners at Landmark, Charlestown.

There have been complaints from some owners over delays, order of repairs, & lack of response by the SC to media reports. Complaints have mainly come from two owners on the 9th floor - _____, 7th floor.

In 2014 _____ complained that he had been told that the Landmark was a cement brick construction. A SC member showed him the booklet given to first buyers which clearly showed that the 9th floor was built differently. He suggested that _____ should contact his selling agent if he thought he had been misled.

The SC fully agreed that the 2015 storm revealed many defects. They had initiated action against the builder/developer Mr P. Durbin before 2015 in first the District, then Supreme Court without any success. They also took part in mediation which led to some water testing & minor repairs. Then in October, 2017 he liquidated the company. In an interview in March, 2018 he said he had participated in discussion about repairs but the "ambit of claims being pressed" was "such that his company could not continue to meet expenses:

The OC did engage a company to report on defects. At the Annual General Meeting (AGM) on 28/11/16 it was decided to accept the report & raise a special levy. Despite some media reports later everyone accepted that the work had to be done. However, on 24/1/17 at an Extraordinary General Meeting (EGM) it was decided to rescind the motions. 48 out of 59 voting owners attended. The poll vote for rescission was 6,687, against 832 votes. Reasons given for the result were that many owners did not accept that windows had to be replaced to prevent rain entering, they could not find mould & they wanted another report.

The SC looked for other builders to quote for repairs. Then in early May, 2017 the OC was notified that _____ had applied to NCAT for a hearing to be held on 12/05/17. They were seeking to replace Lake Group Strata Managing Co. with another company they named, & the dismissal of the SC. The OC had to produce all documents by 30/06/2017.

The hearing was held on 13/10/17 & the decision was released on 27/02/2018. The Member accepted evidence re defects. She found that the OC was in breach of obligations under S106. She also found that it was not unreasonable for the OC to look at other possible ways to have defects adequately rectified. She stated that legal proceedings against the builder complicated the process of rectifying the defects but proceedings were reasonable. She also noted that she generally accepted the evidence of the SC secretary. She also noted that the OC's builder had completed the repairs of one unit for \$140,000 less than the original quote. There was a further appeal to NCAT on 12/04/2018 to change some of the above decisions. It was finally withdrawn in June, 2018 without any evidence being presented by the applicant. The tribunal stated that the OC's expenses for preparing their defence should be paid by the applicants.

refused to pay, saying the insurer had to pay. The insurer said they should be reimbursed. I have no further knowledge of what happened.

On the 13/03/ 2017 a representative from Lake Macquarie Council (LMC) came to the Landmark at the request of to inspect for defects. Although the rep. was happy for a SC rep. to accompany them the others would not allow him to come. (had demanded the key that allowed access to the roof so they could inspect that. When he was told that OH&S regulations stated that only people who had the appropriate safety certificate could access the roof he became very unpleasant. How he expected to retired men, who both needed walking sticks, to climb a very steep ladder & pull themselves up through a small opening we did not know). We received a copy of the report on 19/06/2017. The SC met the LMC rep. on 23/06. We were able to satisfy him on some points & there was a commitment to work through items discussed to find a mutually agreeable solution.

On 13/03/2018 the builder asked what would be the most convenient date to commence work on common property adjacent to his unit. He also prepared a Scope of Work for the 2 units, though it was stated he could not be more specific until he could get into the units & remove panels. On 3/05/ 18 he was still hoping to be allowed in. It was eventually decided that he would start on unit. He did not get access until August. In fact he had to find other work for some months while waiting for cooperation. The unit was finished & he is now working on unit.

has had several articles published in the Newcastle Herald. There has been no attempt to find out if there is an alternative point of view from other residents. After the first article by Joanne McCarthy one resident did write to her expressing a different view. She received a reply that included the following " There are many ways of approaching this situation other than simply to vilify two men, one of whose unit repairs now seems to be held up by personal grievances of people within the apartment building". Several people have written to the editor, but not one of these letters have been published. has had 2 interviews with politicians published.

Recently one of the people concerned, died. Another article was published in which talked about how she had suffered when a letter had been sent to her. She had wanted it brought up at the AGM. The SC pointed out that at that time only a few knew about the letter and it would be better to leave it like that. Once it was read at the meeting it was pointed out that the SC had no control on what was sent through the mail & that the SC wished to condemn the contents of the letter. Many people expressed their disgust that had tried to use her death for his own purposes said that people shunned him because he tried to get the defects repaired.

There were many reasons people avoided talking to