

Submission
No 107

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

Name: Name suppressed
Date Received: 28 July 2019

Partially
Confidential

Dear Committee,

I am making this submission to point to unfortunate circumstances in relation to building inspection arrangements put in place to assist purchasers of properties make a more informed decision about buying a property.

The first point to make is a plea that NSW not go down the seemingly well intentioned, but fundamentally misguided path adopted in the ACT. Compared to the ACT, the NSW arrangements for pre-purchase building inspection largely deliver on the desired policy objective. That is to inform purchases about important characteristics of the property. The key factor behind the success - the prospective purchaser of the property is also the purchaser of the building inspection. Therefore, the property purchaser is the client of the building inspector.

In the ACT, not too many years ago, a system was introduced that makes it mandatory for the vendor to arrange a building inspection and make it available to prospective purchasers. Presumably, the policy intent was to bring greater transparency to the transaction and further move away from the prevailing historical legal position of 'caveat emptor', or let the buyer beware.

However, the policy intent while noble, is a monumental failure. It has actually resulted in there being very little transparency and somewhat of an information asymmetry that works against the purchaser. This is because the situation has created a cosy mutually beneficial arrangement between vendor real estate agents and the building inspection providers.

Practically, vendor agents tell the vendor (as part of their package) that they will arrange the building inspection. They have their 'go to' providers, that provide inspection reports on properties that are not too revealing, so as not to jeopardise the sale. It's mutually beneficial, the vendor agents keep directing work towards the building inspector providers who they know will not produce reports that will affect sales, and the building inspection providers, who keep getting business from the vendor agents, keep their reports in the manner that is pleasing to the agent. It's win win. Except if you are the buyer.

I have even heard that inspectors get kick backs or some times referred to as 'sales credits'. The more properties they have inspected that sell, the more credits they receive. Credits convert to gift vouchers that make their way back to building inspector businesses.

How do I know all of this? I know someone who tried to break into the building inspection market in Canberra but found after a number of years trying, that it was simply all sown up with mutually beneficial deals which, quite frankly, no agents were interested in moving away from. The person I know still managed to turn a profit, but this was from providing building inspections to buyers of NSW property across the border.

So, the story is that basically its a massive policy failure in the ACT. Not properly thought through and not at all evaluated or assessed post implementation.

Some will say that buyers who have a major defect that wasn't reported can take legal action against the building inspector. Well, maybe. But let's not forget that you don't really have legal rights unless you can afford to enforce them. For most people, buying a home is the biggest single purchase of their life. And they do it at a stretch. So in most cases taking legal action is not an option.

I am making similar representations to the ACT government and opposition in the hope that some one will look into it and sort it out. It's a complete scam and an absolute travesty for consumer protection. In NSW, the strength of the system is that the buyer, in whose interest the report is prepared, is the purchaser. Keep it that way.

I have asked for my name to be withheld because clearly there will be many people down in Canberra, on the gravy train, that will not appreciate my comments.

Thanks for the opportunity to make a submission.