

Submission
No 168

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

Name: Name suppressed
Date Received: 29 August 2019

Partially
Confidential

Thanks for the opportunity to make a late submission to the enquiry.

It's important that, if the enquiry is to be seen as thorough and meaningful by the public, all possible efforts are made by the NSW Government to gather relevant information regarding shortcomings in the State's construction industry.

To this end I submit the following two examples of building projects that I have been personally involved in that illustrate major failings of the planning approval and certification processes in particular.

1. 21 Bay Drive Meadowbank (aka: 21-24 Railway Street) - Multi Unit Residential Development

Summary

Close relationship between then Developer and Ryde Council resulting in Rushed/Bogus Certification - Rectification Costs Unfairly borne by Unsuspecting owners/occupiers.
My involvement: Council employee.

Sequence of Events:

DA approved by Ryde Council -

DA allows Developer 1 to make majority of sales to offshore (Chinese investors/buyers).

Development Approval involved a Voluntary Planning Agreement (VPA - available on Council's website).

VPA benefited Developer 1 by allowing project scale/yield/profit to increase in return for developer 'contributions' to Council ie: public works program and an affordable housing unit.

- Majority of sales to offshore Chinese buyers.

- Developer 1 gets project financed by 'borrowing' deposit shopping for these additional project finance elsewhere, ie: project almost 100% financed by a developer with no initial funds.

- This first developer goes broke mid construction.

- Second developer takes on project and debts, with a view to finish project quickly and settle the sale of units to cash in.

- Project nearing completion but with significant certifications (fire safety), not obtained by private certifier.

- Developer 2 pressures Ryde Councillor to provide Occupancy Certificate, as he can't settle/sell unit without it and pay of mounting debts. ('Good people are Hurting' letter).

- contacts City of Ryde GM who instructs , Ryde Council to get approval done.

- Occupancy Certificate endorsed by Council based on 'draft' Fire Safety Certificate only and signed by Developer (not certified), prior to construction completion as required.

- Granting of Occupancy Certificate allows Developer 2 to take profit.

- Owners Corporation attempt to gain first Annual Fire Statement approved. Unable to as the building doesn't comply according to Council compliance section.

Council imposes a Fire Order on the Building, new owners have to pay.

- Strata Manager instructed to treat non-compliance as a developer defect.

- Council takes legal action against developer for failure to hand over the remaining single unit, the affordable housing one.

- Disabled Community Housing tenant lined up to occupy can't move in, so is housed at ongoing Council expense in Meriton Apartments (another local developer), at ratepayers expense.

2. 30-44 Garden Street, Alexandria - Zinc - Multi-Unit Residential development.

Summary: Owners of Poorly constructed building left to pay over \$0.5M cost to rectify significant defects, likely to have been known to Developer, Builder and Sydney City Council.
My involvement: Apartment Owner

Sequence of Events:

- Shelf Company created by Developer Buildcorp for the project 2004.
- Developer Buildcorp contracts builder TQM Constructions, to build project as designed by architects Turner Associates.
- Sydney City Council approves DA and subsequent Construction and Occupancy Certificates.
- Defects list identified by Owners Corporation after settlement of sales from Buildcorp.
- OC left to negotiate with builder TQM regarding rectification of defects, developer out of picture.
- Partial rectification of defects list by TQM after much delay.
- More than 10 years later in 2016, a Sydney City Council fire safety order is lodged against the building for non compliant fire safety measures. Fire dampers and penetration seals not installed in building by TQM.
- Owners Corp investigates mould issues, to discover drainage pipes not connected below ground stormwater system.
- Owners Corp facing rectification costs in excess of \$500,000 to comply.

I would appreciate it if the above matters are brought to the attention of the Enquiry as they are illustrative of the major failings of our current construction industry and particular its devastating financial impact on apartment buyers.

One area requiring increased scrutiny is that of Voluntary Planning Agreements which in some ways could be seen as 'institutionalised bribes', aiding developers to leverage Council approval in return for financial gain.