

Submission
No 13

**INQUIRY INTO FURTHER INQUIRY INTO THE
REGULATION OF BUILDING STANDARDS**

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Partially
Confidential

Problems with Strata law and living in Strata.

It isn't just the physical building that is problematic. Of course this is a major factor and can cause an owner to lose their life savings if the complex has major defects. Currently Strata properties are sold off the plan and in this exceedingly hot market some developments are sold out prior to construction having commenced. This can lead to deception. Because of the clever marketing tools used widely today such as walk through videos, the customer can easily be given a false impression of sizes, finishes etc. The end product in plenty of cases simply do not measure up to the glossy presentations. This is before builders/developers start cutting costs in the actual construction. Reports in the press in recent times show the extent of the damage caused by faulty building practices.

However the sleeping giant that causes a great amount of angst and loss of value is in fact the Strata owners themselves. This is where the Strata Law is not fit for purpose. At the first AGM a committee is elected democratically by the Strata owners. However the buildings today are very complex and need a great deal of expertise to maintain them in a satisfactory condition. As these committees are mainly lay people and volunteers they are on the whole out of their depth in regard to the skill sets required to manage complex issues. Once the committee is elected they become in fact the de-facto owners of the common property. The engaged professional Strata Manager can only advise the committee of their responsibilities and it is the committee's prerogative to heed that advice. If a building is found to be defective, qualified professionals need to be involved in the decisions at the very beginning with the course of action to remedy the defects.

The law society itself is in fact at the heart of this failed system as many lawyers don't make themselves aware of the material facts affecting the structure and vendors do not necessarily disclose them. My personal experiences in this regard was firstly purchasing a unit where material facts were not clearly stated but would have been obvious had a thorough search been made and secondly observing lawyers conveying units in the building where I live while being aware of the serious problems. Real estate agents are also guilty of turning a blind eye to possible defects and consequent ongoing special levies. In short, the Strata Law isn't fit for purpose as it currently stands. It has cost me \$60,000.00 in special levies where I live and the building defects are not nearly completed. In fact because of the flawed Strata Law, the building where I live will probably never be fully rectified so it complies with Australian Standards.

Among the many Australian Standards breached by the building's developer, currently a director of _____ one of the largest Project Home Builders in Australia, are not to standard windows and doors and the fact the wrong width safety glass was installed on the balconies and now has to be replaced on every glass railing in the building. This building was privately certified by _____ a well known serial offender in the certification of high rise. Many problems in The Landmark Building at Charlestown were exposed by a litigation compliant Scott's Report done in 2015-6. Since then, The SC/ Owners Corporation have cherry-picked what they choose to fix and in what order. Strata Law has allowed a highly qualified Structural Consulting Engineering Company to be superseded by a lay Committee who have stated in an email to me that they know nothing about building construction and what's more don't want to know. I have been contacted by many people state wide suffering under this regime. One Sydney family I am in contact with have spent in excess of \$450,000.00 on legal fees and Engineers reports and had rulings in their favour from NCAT and DFT yet the SC in question have ignored the rulings and their Penthouse Unit is almost uninhabitable. It leaks badly and the mould is a health hazard. The Law Society could be seen as complicit in this faulty system as defect problems have become a huge relatively new source of income for Lawyers. They convey the property for the client and in many cases then represent

their client against their own SC or the developer. Once again I am currently experiencing this process and have spent a considerable sum on lawyers. A term I have come to abhor used by every lawyer I've spoken to when asked about costs involved is "how long is a piece string?" The current Sydney Lawyer I've engaged has been honest by saying the law rarely delivers justice because it's an adversarial system.

My background has been that of a TAFE qualified Structural Engineer a licensed Valuer without limitation and a Real Estate Agent. I was the Hunter Valley chairman of 14 LJHOOKER offices yet the system allowed me in my retirement to purchase in a defective building. I believe private certification has been a large part of the problem. A building structure doesn't have to be structurally unsound for it to be rendered unliveable; water ingress and mould will adequately do the job.

Politicians of both persuasions share responsibility and the state should shoulder some of the financial responsibility for this evolving fiasco. Mascot Towers are a glaring example of the distress the innocent purchasers are left to live with. They are paying off unliveable premises and will be stuck with this debt for the duration of their mortgages.

A terrible reality is that buildings over three stories have no home owners warranty. Also as in my building's case the developer simply put Kingston Piazza Into liquidation therefore passing the multi- million dollar defect repair bill to the Owners Corporation. This practice isn't criminal. Why is it not? I would suggest this practice is larceny on an industrial scale.

It's the Imperial complex in Parramatta's CBD.

The building commissioner David Chandler adjusted an occupation certificate to allow a developer to force purchasers to settle on units they had paid deposits on approximately five years ago. This is beyond belief that they have been thwarted from claiming their deposits back.

I believe the task now is too complex for one person to solve and the extent of the damage done so far is enormous. Unfortunately we are stuck with the current state of play caused by Private Certifiers and unscrupulous developers.

The answer is to control the build processes during construction not certifying after the tasks have been completed. Under the present regime the Private Certifiers needn't visit the building site they can certify the work simply by viewing a photograph.

- (1) An independent project manager should be appointed to each build and their role should be one of a quality control officer.
- (2) The architects should design to Australian building standards therefore ensuring the elements used in the building construction ensure compliance to the relevant standards.
- (3) All components used in construction of the project should be monitored for compliance to the code and verification by the project manager.
- (4) Pride needs to be installed in the trades people and this comes from the leadership of the development company. Many developers I'm sure do this however many developers aren't qualified builders and simply chase the dollars.