



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
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Submission Cover Sheet

Inquiry into Building Quality in the ACT

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From: [REDACTED]
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Thank you for the opportunity to put my views on this very important issue. Bottom line, builders need to be made more accountable by hitting their hip pocket (ie cancellation of licence) and more consideration needs to be given to the financial, mental and physical burden placed on an owner who has to go through hell and back to get the slightest bit of re-dress.

Certifiers

After engaging an Architect to design and submit the house plans for approval, I agreed to engage a builder recommended by the architect. The builder asked me if I had a certifier and as I hadn't he advised he would be choosing the certifier. I didn't see a problem with this as I believed I had engaged a good and trustworthy builder. However, given all that I have been through with the 'good and trustworthy' builder, I now know why and how important it is that owners engage a certifier.

Even though I had read 'Building in the ACT: A consumer guide to the building process' available on the Access Canberra website, the importance of the certifier in the project did not sink-in at the time. This was probably due to the many other issues requiring attention at the time such projects are undertaken.

It soon became clear the certifier was not 'working for me'. During the build, I did telephone the certifier on one occasion to enquire if he had checked something (can't quite recall what it was) and he laughed in my face (so to speak). I asked how he could be certain that X had been done correctly and he replied because the builder ticked off on it and gave him the paperwork.

On other occasions when I contacted him, he was rather rude and so I did not contact him unless absolutely necessary.

On another occasion when I met the certifier on site to go over all the requirements to apply for separation of title, he advised the old part of the driveway (from the footpath to the new driveway) would need to be fixed as it had been damaged during construction. As the builder had delayed the project by almost a year, he told me to forget the builder and advised the asphalt in this area would need to be cut out and replaced. He gave me the name of someone who could give me a quote. This and other outstanding work was left and put in the hands of a solicitor (what an expensive mistake that has been!). The other day I called the certifier and advised the builder had only patched the driveway and has made no attempt to rectify the damage of the other half of this area. The certifier stated he did not care what it looked like as long as it was fixed and there was a path to the letterbox ie one standard when I pay for it and another when the builder is paying for it.

I can tell you that this builder and certifier have been round the traps for many years and know exactly what they can and can't get away with.

Suggested improvements:

While the information in the ACT guide is useful, it hardly mentions Architects or others involved in the design of the new build or renovation. They can and do play an important role in getting the plans approved and recommending builders. Many clients trust their architect and take their advice on builders. I think architects/designers and their role should be mentioned in the guide. This should then lead into builders 'recommending' or 'offering' to engage certifiers and why this is **not** a good idea.

Interesting that the ACT is the only jurisdiction with fully privatised certifier – this has to change.

Randomly assigning certifiers to projects or having a small number of government certifiers who a buyer/property

owner can request in place of a private certifier would be a start. However, the latter could become a problem when the government certifiers are over-booked or unavailable due to demand. I think a small number would quickly need to be increased to a moderate number to satisfy the demand which would result from people preferring this option (I know I and others who would).

BUILDERS

Firstly, and most importantly, self-regulation does not work – anywhere. And this has to change - NOW.

HIA's vision is to be one association which encourages industry high-standards through self-regulated commercial conduct. I will be making a formal complaint about my builder under their code of ethics. It will be interesting to see how that goes!

I have shared (and continue to share, as the nightmare is not over) my story with many and in turn practically everyone can relay a negative story about their own experience or someone they know.

While there may be 'options and procedures available' when negotiations between the owner and the builder have broken down, my experience has been that the onus, stress and expense is on the owner. If that isn't bad enough, any 'assistance' from any (government) authority is to refer it on or in the case of private firms offer assistance which is costly and rarely achieves anything other than burdening the owner with yet another (large) bill. THIS HAS TO STOP.

I am aware that many property owners have had issues with the construction of their homes not meeting various Codes (technical). I read with interest the

article in the Canberra Times on 29 June, regarding “bad builders ‘targeted’ with exams when renewing licence”. I’ll bet builders are shaking in their boots (NOT)! If the ACT government and building regulator was serious about this issue, the message would be “lift your game or your licence will be cancelled” rather than “lift your game or do not build in the ACT” as stated by Mr Ramsay.

I am also aware of many property owners whose builder does not comply with the contract, in particular, completing the construction on time, paying liquidated damages or returning to fix defects. In my case, the build was to be completed in February 2017. The HIA contract stated the builder was to advise me in writing if he could not meet the date and negotiate another completion date. He did not/not do this and ignored my emails and verbal requests regarding a completion date and ignored my emails and invoice regarding liquidated damages. I learned last week that the builder did pay another client the liquidated damages but the client was a man. I have spoken with other single females who have engaged builders (not mine) and they state they were not taken seriously and had no end of difficulties. Also, what was interesting, when I asked if these people had contacted Access Canberra the response was either that they had and it was a waste of time or why bother? I did contact Access Canberra and while they did try and be helpful, they said the issue was contractual and nothing they could do about it. Since when is a builder’s professionalism, ethics, honesty and integrity ‘contractual’. Are you going to be examining builders for these qualities?

Regardless of whether the builder does not comply technically or contractually, the consumer should not have to jump hurdles to have the situation rectified. At the moment, the process is stressful, difficult and costly. Consumers (ie hardworking, taxpaying citizens who are keeping the economy going) do not need the extra stress or expense.

One option to resolve technical or contractual issues quickly would be via a Government building inspector (ie independent) who would come on site see and hear both parties and would determine the appropriate course of action on the spot. Nipping the issue in

the bud would go a long way in saving time and money for both sides. This course of action would be strengthening if something along the Queensland demerit point system was implemented, where failure (by the builder) to comply with a direction from the regulator may result in the issuing of demerit points and result in loss of license.

I note in an recent newspaper article, the HIA ACT executive director, Greg Weller, “called on the government to implement better dispute resolution mechanisms, going as far as to recommend a specific body to deal with these issues”. I believe there are far more issues relating to building in the ACT than the records show, simply because (as stated above) people didn’t find Access Canberra helpful, just want the issue over, to move on and forget the whole horrible experience.

I agree builders and tradespersons must be competent and skilled. However, without honesty or ethics on the part of the builder, the experience becomes stressful and unpleasant and in some cases highway robbery. For instance, my dual occupancy is structurally sound (I hope), however, it has been a costly and stressful experience because the builder chose to delay the completion by almost a year for no other reason than he could (that said, the legal issue to complete unfinished work and defects is still ongoing – at my expense). Does the builder care? Is he going to be named and shamed by the ACT government or HIA? Is he going to lose his license? The answer to those questions is NO. Whatever I do will cost me money and given his ‘experience’ in the building trade could evade and/or ignore authorities because he knows how and that nothing will happen because it deemed ‘contractual’. During the build, some of the trades persons informed me that he had made is name when he worked on site but since he started developing his business over the last few years ‘he was a completely different person’. The builder promised a site manager but this never eventuated.

I know of other people whose builder has constructed their house to a good standard and when contacted to sort out the defects within the relevant time period of time, the builder has made promises and positive noises but has not turned up to set the defects right and stops answering calls or responding to emails. So what do people do in these cases? They sort them out themselves at their own expense.

I note in your documentation (page 9) under Statutory warranties
 “If the work has not been completed, and the contract does not state a date by which, or a period within which, the work is to be completed – that the work will be carried out with reasonable promptness.” How long is a piece of string? I also note the period for which statutory warranty operates. And what is the chance of getting a builder back to rectify these issues under warranty? Practically none – unless the owner wishes to go to court. Great! More expense and stress. Builders should be losing demerit points and their licences when failing to comply on these points – that would sort it out. Without consequences which hit the hip pocket, builders will just continue to ignore their responsibilities and, as usual, leave the owners out of pocket.

Given my builder was recommended by the Architect and I could find no negative (or positive) reviews online, and his (few) referees attested to his ability to complete a dwelling to standard and on time, I would like to suggest the following information be made available (it may need tweaking) in a spreadsheet on an ACT government website, for example, ACTPLA so consumers can make an informed choice.

DA (approved) details	Builder	Contract completion date	Actual completion date (ie keys handed over by the builder)	Disputes/comments

Anyone thinking of engaging a builder could look at the information provided in this table and ascertain whether the builder has a history of completing a build on time and to standard which would be very helpful in avoiding builders with a negative track record. The underperforming and unethical builders need to be named and shamed and consumers protected from them. It is all very well expecting people who have had a negative experience to go online and 'out' these builders. However, reality is that people prefer to put the horrible experience behind them asap and never think about it again. Also, people don't want to be sued for something they post on the web.

The second paragraph in the guide under 6.1 Dispute resolution needs to be more specific. It needs to specify avenues that can be considered or should not be considered. For instance, after contacting Fair Trading only to be told my issue was 'contractual' and there was nothing they could do, I tried speaking with the builder to no avail. This increased my stress level no end as I did not understand, and still do not understand, why they are behaving in this manner. I engaged a Solicitor who has wasted another 5-6 months of my life, maintained the stress and cost me thousands for basically nothing. I recently spoke to another solicitor whose expertise is in this area and was told up front, there is no use trying to negotiate with a builder. And after all I have been through - I have to agree. He recommended I speak with a particular building consultant. And on it goes. And best of all, the builder will come out of this without being an extra cent out of pocket and no backlash. Fabulous!