



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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INQUIRY INTO BUILDING QUALITY IN THE ACT: SUBMISSION

TO: The Committee Secretary, Standing Committee on Economic Development and Tourism, Legislative Assembly for the ACT, GPO Box 1020, CANBERRA ACT 2601.

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Building quality in the ACT is very poor. This is due to the lack of effective regulation by the ACT Government. This costs innocent people huge amounts of money and causes significant long-term stress. It can also cause life-long health impacts, this is what happened to me. There were a huge number of defects with my apartment building [REDACTED] I will focus on the impact of a defect that results in water damage.

I bought an apartment in the inner north in 2009. I was 27 and it was my first home. Around that time in my life, whenever I would go to my GP for a checkup she would say "what are you doing here? There can't be anything wrong with you, you just look so healthy". This was true, the only thing that had ever gone wrong with me was the occasional bout of tonsillitis, and mild glandular fever a few years earlier.

Details of the water ingress

- The first few years of living in the apartment were a period of drought.
- One day after heavy rain in 2014 I walked near the window in my bedroom and could hear a squelching noise as if I was stepping in a puddle, but the floor that I was standing on was completely dry. When I looked closely, I could see a large area of the floor had been slightly darkened by mould on the underside of my floating bamboo flooring. It was several square meters, most of it under my bed.
- I reported this to my body corporate.
- It turns out that the window ledge outside my bedroom window was sloped the wrong way, instead of the ledge sloping down so that rain would drain away from the window, it was sloped up so that any rain would pool up against the glass of my bedroom window.
- So a tiny hole that was meant to allow condensation to drain out of the window, allowed rain come in.
- the rainwater went underneath my bamboo floorboards, so the very slow tiny leak took a few years to become visible.
- The body corporate arranged for the window ledge to be fixed that week
- I then initiated the process of getting the resultant damage/mould fixed. This would go on to take 4 years.
- Some of the reasons for this process taking so long are;

- this defect only became apparent after the 5 year building warranty period had expired (due to drought conditions early on in the building's life).
 - This led to the liability for the works and cost being tossed around from insurer to insurer to builder to strata manager for several years
 - The Strata Manager was able to ignore advice from a building consultant that water ingress is a class one defect and should be treated as a priority because of the health implications of mould spores.
 - No awareness of a dispute resolution service for this sort of matter
- During this whole period, I was sleeping on top of the large area of mould.

The health impacts of mould – Chronic Inflammatory Response Syndrome (CIRS)

Around 75% of the population will never have any problems in a mouldy building. They might experience allergy symptoms, and those would clear up as soon as they move out of the mouldy environment.

However the remaining 25% of the population have a genotype that makes them susceptible to developing a mould illness. But they will only go on to develop that illness if that genotype has been activated by a previous inflammatory event, such as glandular fever or Lyme disease. The mould illness is called Chronic Inflammatory Response Syndrome (CIRS).

Like most people, I had not heard of CIRS, and was not aware of mould causing any health problems. While sleeping in the mouldy bedroom I began to experience general allergy symptoms. I also started to experience more significant symptoms:

- serious cognitive issues (memory problems, couldn't concentrate for long, difficulty learning new things, problems finding the right word/forming sentences, trouble problem solving, and general brain-fog, I was scared that it was early onset dementia).
- brutal sinus headaches (this caused me to miss around 10 – 15 days of work a year),
- ice pick headaches (feeling like your head has been stabbed with an icepick)
- severe fatigue (I had about one hour of energy per day)
- muscle weakness
- significant hair loss
- unexplained weight gain of 15 kilograms.

I went to my GP, and she just looked at me blankly when I told her about these symptoms and told me to keep using the allergy nasal spray. I called all doctors in Canberra who specialise in Environmental Medicine, none of them dealt with mould.

I knew that what I was experiencing was more than an allergy reaction, and that everything that was happening to me was related to the mould (symptoms would begin to improve if I went on holiday, only to return with full force within an hour of coming home). So I had to resort to searching the internet to try and work it out for myself, as no one (not even my parents) would believe me or help me. This was quite hard, because all of the Australian Government health websites only acknowledge the allergy impacts of mould.

I found an American mould website (survivingmould.com) that showed a table of very random symptoms which matched everything that was happening to me, and described CIRS. I was so relieved, I had hope for the first time in years. It provided a list of doctors who treat it. There are only two in Australia. One was in Sydney, so I got on her 6 month waiting list.

Chronic Inflammatory Response Syndrome comes about because when the body detects mould, it mounts a normal inflammatory reaction but doesn't actually complete the reaction. So the mould isn't removed from the body, and the body keeps mounting an ineffective response to it. This leads to a build up of inflammatory substances in the body over time, which causes a number of symptoms in themselves, and also causes other substances in the body to be produced in much higher or lower levels, which each have their own set of symptoms too. It essentially causes metabolic chaos inside the person which results in them losing the ability to function and lose all quality of life, while on the outside 'looking fine'.

The diagnostic testing performed by the doctor in Sydney confirmed that I had CIRS. Some of the results showed:

- Two parts of my brain had shrunk, the Caudate (which is responsible for learning, memory, sleep, language control and social behaviour) and the Thalamus (which processes sensory information).
- Vitamin B12 deficiency (important for nerve conduction and memory function)
- Iron Deficiency (important for oxygen supply to the cells, thyroid function, dopamine and serotonin production)
- Severe Vitamin D deficiency (important for immune system, calcium absorption, endorphin production)
- Zinc deficiency (important for digestion, hormone production, hair, skin and nails)
- Underactive thyroid
- Underactive liver
- Excess copper (this interferes with liver function)
- Leptin resistance (this hormone regulates the amount of fat stored in the body, and stimulates the appetite)
- High cholesterol (due to a underactive liver which has been loaded up with mould toxins)
- Strong estrogen/testosterone imbalances

I started treatment for CIRS 12 months ago, and still have at least another 3 months to go. The treatment is incredibly time and energy consuming, almost as energy-sapping as the illness itself. And because CIRS is not yet a recognised condition in Australia (this is changing, see the recent Federal Parliamentary Inquiry into it -

www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/BiotoxinIllnesses/Terms_of_Reference), nothing is covered by Medicare – so it has cost me over \$15,000 in direct medical costs to date.

What it cost me financially

Surprisingly, medical costs were not the largest category of financial cost to me. Mould spores are microscopic and hooked shaped and get on every single item in a mouldy home. So my Doctor told me to move out and throw out the entire contents of my apartment (this included furniture, clothes, books, everything), as I would never get better if I was still exposed to mould spores. But as 'mould growth' is not an insurable event like fire, flood or theft, the loss was not covered by my contents insurance policy (sum insured was \$65,000).

Also, before I could start treatment I had to move out, to a very low-mould home, as CIRS patients become permanently sensitised to mould and can no longer tolerate normal levels of mould. Only one in seven homes are low enough for someone with CIRS. So while the battle for who would take responsibility for the repairs continued, I had to find a place to rent, while still paying the mortgage on my apartment. This overlap lasted over 8 months, and cost \$11,200 in rent.

Not only do I have to live in a home that is very low mould, I now have to test all buildings that spend a lot of time in (work, homes of family etc.). This has cost me \$1,800 to date.

Medical costs	= \$15,000* at 30 Sept 2018, and ongoing
Replacement of contents	= \$65,000
Double rent	= \$11,200
Mould testing	= \$1,800
Air purifier (to keep home low mould)	= \$750
HEPA vacuum (as above)	= \$750
<u>TOTAL COST TO ME SO FAR</u>	= \$94,500

What else I've lost

Friends: Due to the above mentioned symptoms (but being undiagnosed for so long) I did not have the capacity or inclination to stay in contact with my friends, nor did I have an explanation to provide them with for why this was the case. So after 4 years of that, plus agreeing to see them when they initiated contact only to cancel on the day because I wasn't feeling well, I had lost touch with nearly all of my friends. Once I had the diagnoses and an explanation for my lack of contact, I sent an email to a handful of people. They were all very supportive at the time, but in the year that has passed since doing that I don't think there are any that I have heard from more than once.

Confidence in my brain and speaking: I used to have an IQ that qualified me for Mensa. This gave me supreme confidence in my intellectual ability. Now, after years of being unable to finish simple sentences, comprehend what people are saying to me and find basic words, I have lost confidence in speaking. At work I avoid having meetings with my team, I just send them emails instead. I get very anxious answering the phone, as it means I will have to think on the spot and try and resolve problems with many people listening.

Possessions: As mentioned above. Financial cost aside, this is an incredibly emotionally distressing thing to have to do. It is like your house is burning down in slow motion.

Financial security: I used to be very financially comfortable. I always had around \$10,000 in my savings account, and was a long way ahead in my mortgage, and no other debt. However, in the last 12 months (for treatment and to replace the most urgent of belongings) I had to spend every cent that I've earned during that time, plus drain my savings account and redraw around \$15K from my mortgage. I am now living paycheque to paycheque.

Job prospects: Throughout my career, I have been offered every job that I have ever interviewed for. Now, after what's happened, it will be a very long time before I have the confidence in my brain to even get me through a job interview – let alone be the best candidate. Also, the illness has significantly affected my ability to do my job and to even turn up to work, this will have severely impacted my reputation in the people around me who do not know my health status.

Freedom to travel, change jobs, visit friends: Due to now being mould-sensitised, I no longer have the freedom to travel, change jobs or stay over at people's houses. I need to inquire into the water-damage history of any building that I intend to sleep in. This is always difficult, often impossible. Many people with CIRS simply never travel again.

Faith in the government, legal system, medical system, building industry: I used to think that I was very fortunate to live in a first world place, with mostly-universal health care, and fair systems (legal, building, insurance). I believed that the people in government would be sufficiently competent to keep their constituents safe, and to at least allow them legal recourse where they had been harmed. I now know better.

Summary

This isn't just a terrible chapter in my life that will soon be over. I will always be out of pocket around \$100,000, as I have no legal recourse against anyone. I will never again have any possessions from the first 35 years of my life. I will constantly have to be checking for water damage in any building I enter. Even once I have found a new low-mould home to buy, it will require constant vigilance on my part to ensure it stays that way. The tiniest leak in a roof/appliance/window can result in mould growth in 48 hours. If that were to occur, I may have to throw out the contents of that house too and start over again.

I am livid that all of this happened in the first place, as this could have been so easily prevented. I now have a \$0.99 app on my phone that acts as a spirit level, which could have picked up the incorrectly angled window ledge. How a builder and certifier didn't pick up on this is unfathomable.

I am also livid that 100% of the consequences of this building defect have fallen on me, not the builder, nor developer, nor certifier nor the ACT Government.

There are probably hundreds if not thousands of Canberran's in the community with undiagnosed CIRS from a building defect. As the government of this jurisdiction you have a responsibility to act quickly and effectively to save thousands more Canberran's from a similar very preventable fate. It would be wise to think of water-damaged buildings as the asbestos of the 21st century, and amend building standards accordingly.

Recommendations:

- Extend the building warranty/certifier liability period to 10 years, with no limit for death or personal injury - as per NSW Government (see attached letter from the NSW Minister for Innovation and Better Regulation)

- Creation of a free building dispute resolution service (also as per NSW Government, see attached letter)
- Certifiers must go back to being government employees (the costs of this could be funded by a fee on developers). Complete independence in this role is the only way to ensure builders produce quality work.
- The creation of a builders register, which shows the number of complaints against them or level of defects in their work. This would need to be listed by individual builder name, not company (to avoiding phoenixing)
- Loss of licence for builders who consistently fall short of standards.
- Expand the need for licencing to Waterproofers, as this component of the building is of utmost importance.
- Strata Managers should also have to be licenced. The licencing would need to include some knowledge of mould and it being an urgent health issue. They should also have to be aware of the process for urgent repairs. Towards the end of my saga, I found out from one of the engineers that because of the health effects of mould, the body corporate would have been able to pay to get the repairs done straight away, and then chased the relevant party for a reimbursement of costs. I feel like the Strata Manager should have known this and advised the Body Corporate accordingly.
- Add simple design restrictions to reduce the likelihood of water ingress. Such as no more flat rooves. Eaves of a certain size should be mandatory.



Matthew Kean MP
Minister for Innovation and Better Regulation

Mr Gareth Ward MP
Member for Kiama
By email: [REDACTED]

Dear Mr Ward *Gareth*

Thank you for your representations on behalf [REDACTED] about the accountability of private certifiers.

I am sorry to hear about [REDACTED] experience with a unit defect in the Australian Capital Territory. In NSW, accredited certifiers (council and private) and other professionals are generally liable for 10 years for loss or damage arising out of, or concerning, defective building work. However, the 10 year limit for legal action does not apply to death or personal injury. Private certifiers are required to have professional indemnity insurance to cover their statutory liability.

In addition, NSW homeowners can also seek a rectification order against a builder through NSW Fair Trading's free building dispute resolution service. This service can be accessed for up to six years after completion of work.

The NSW Government is progressing a major reform package to further strengthen and improve the certification system and building regulation in NSW. Since releasing the response to the statutory review of the *Building Professionals Act 2005 (BP Act)* in September 2016, the NSW Government has made substantial progress, including commencing work on the re-write of the *BP Act*, which will include clarifying the responsibilities of certifiers, and improving their accountability and independence.

This is just the beginning of a range of reforms to improve the system of building and planning regulation in NSW. Key stakeholders and the community will be notified of opportunities to provide feedback on proposed changes as they arise. This will help to ensure NSW has a leading system of building regulation and certification that delivers safe and well-constructed buildings into the future.

Should [REDACTED] wish to keep up to date on the reforms, I encourage him to visit the Building Professionals Board's website at www.bpb.nsw.gov.au.

I trust this information is of assistance to you in responding [REDACTED]

Yours sincerely

The Hon Matthew Kean MP
Minister for Innovation and Better Regulation

20.12.17