



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM  
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Ms Suzanne Orr MLA, Mr Mark Parton MLA

## Submission Cover Sheet

### Inquiry into Building Quality in the ACT

**Submission Number: 013**

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Standing Committee on Economic Development and Tourism

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

### **INQUIRY INTO BUILDING QUALITY IN THE ACT**

I would like to raise an issue with the Inquiry concerning adherence to the specifications of units constructed in the ACT. The issue arises from my recent purchase of a unit in a development in 

The contract for sale stipulated that the unit would be 84 square metres in size.

However, when the units plan was registered nearly three years after I had purchased the unit off the plan (following considerable delay in construction of the complex), my unit was registered as being only 80 square metres. I would not have bought an apartment of 80 square metres as I considered an apartment of that size too small for my requirements, which it has indeed proven to be.

I initially queried the discrepancy in size with my solicitor and with my real estate agent. They both indicated to me that developers in the ACT were "allowed" to measure a unit differently for marketing purposes as compared with measuring a unit for registration purposes. I had difficulty comprehending this proposition, which, if in fact the case, would appear to raise issues of misleading and deceptive conduct.

I subsequently pursued the matter through Access Canberra.

The first response I received from Access Canberra was to the effect that my car parking space and my storage cage, each represented (by Access Canberra) as being of the same size (which is not the case), would be taken into account in determining the size of my apartment. I rejected this assertion.

I then received a second response from Access Canberra, which was to the effect that the relevant officer had had a telephone conversation with the ACT Master Builders Association and had been advised that the contract for sale would generally contain a term contemplating that the ultimate size of a unit may be up to 5% less than originally envisaged due to construction exigencies and suchlike.

Clause 37.5 of the standard ACT Law Society contract for sale reads as follows:

The Buyer cannot make any objection or requisition on title or claim for compensation in respect of:

- 37.5.1 any minor variations to the Unit between the plan attached, and the Units Plan registered by the Registrar General; or
- 37.5.2 any minor alterations required by an authority or the Registrar General in the number, size, location or Unit Entitlement of any other unit in the Units Plan or in or to the Common Property provided the proportion of the Unit Entitlement of the Unit to the other units in the Units Plan is not varied.

In this clause, a minor variation is any variation **less than 5%** to either the size or value of the Unit described in the plan attached. [emphasis added]

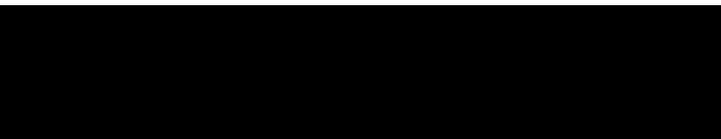
The Special Conditions of Contract applicable to my contract for sale include the following provision:

In addition to Clause 37.5 the Seller is permitted to make variations to:

- (a) the Plans (including but not limited to variations to the configuration of the Unit to accommodate services, riser ducts and other structures) provided those variations:
  - (i) are in the Seller's opinion reasonably necessary to comply with the Building Code of Australia as applicable in the Australian Capital territory;
  - (ii) are required by any relevant authority; or
  - (iii) do not:
    - a. reduce the area of the Unit by **more than 5%**; and
    - b. result in any room being deleted from the Unit ... [emphasis added]

I note that several other owners of apartments in my complex have indicated to me that their apartments are smaller than they expected them to be.

I would encourage the Committee to look in to this issue of apartments in Canberra sold off the plan not being commensurate with the apartment size stipulated in the contract for sale.



Shannon Cuthbertson

