



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM  
Mr Jeremy Hanson MLA (Chair), Mr Michael Pettersson MLA, Ms Suzanne  
Orr MLA (Deputy Chair)

## Submission Cover Sheet

### Inquiry into Building Quality in the ACT

**Submission Number: 58**

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**From:** Janodha Jayasekera  
**To:** [LA Committee - EDI](#)  
**Subject:** BUILDING QUALITY AND ACCESS CANBERRA  
**Date:** Thursday, 25 October 2018 3:36:28 PM  
**Attachments:** [ACT INQUIRY.doc](#)

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Dear Sir,

Please find enclosed my letter regarding the quality of my house built by a dodgy builder and some information related to the Access Canberra responses to the issues I have raised. I have brought to the notice of Access Canberra approximately fifteen defects of my house as the builder completely ignored all my requests. Unfortunately even after well over 30 months none of the issues have been resolved. I do not have heating or cooling since Septemeber last year.

Unfortunately Access Canberra advised me that the house has been built according to the Australian Consumer Law. This letter will prove how inept and incompetant these officials are.

Please see for yourself by reading the enclosed letter whether Access Canberra is there to look after the taxpayers or the dodgy builders.

I hope this enquiry will shed more light on the dodgy buildlers and inept officials at Access Canberra.

I am happy to provide further information if required.

Kind regards,  
Janodha Jayasekera



Janodha Jayasekera

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23rd October 2018

The Secretary  
Inquiry into Building Quality Committee  
State Parliament House  
CANBERRA  
ACT

Dear Sir,

#### INQUIRY INTO BUILDING QUALITY IN THE ACT

I am one of the victims of the dodgy builders who operate in the ACT without being scrutinized by any authorities and managed to hoodwink the incompetent and inept Access Canberra officials. It is astonishing and incredible to see how this department totally ignored my situation and protected this builder.

My wife and I contracted [REDACTED]  
[REDACTED]  
[REDACTED] to build our dream home off the plan at the above address on the 23<sup>rd</sup> October 2014. The builder and the seller [REDACTED] informed us that the house will be ready by Christmas 2014 but without any reasonable explanation the builder delayed the completion of the house by 19 months. We moved into the new house on the 16<sup>th</sup> May 2016. Since then we have noticed there are a number of defects required to be rectified. But every attempt to contact the builder to get the defects rectified became a futile exercise as he even refused to answer to my phone calls or emails.

As I couldn't get any of the issues rectified I have written the following letter to Access Canberra on the 26<sup>rd</sup> July 2018 highlighting every defects.

Fair Trading Advisory Complaint Unit  
GPO 158  
Canberra City  
ACT 2601

Dear Sir/Madam

On 23 October 2014, I entered into a contract with [REDACTED]  
[REDACTED], to construct a family home at my address. The completion of the house delayed

several times without any reasonable reason and 19 months after the contract was signed, we took occupancy of the house on the 16<sup>th</sup> of May 2016.

Unfortunately, the work has been unsatisfactory due to the following defects: -

Indicated below are the defects I am trying to get rectified for well over two years:

1. A/C & heating indoor unit installed in the ceiling cannot be accessed for repairs and services. The AC or heating is not working from September 2017.
2. Upstairs bathroom ceiling needs to be repainted as discussed with the builder.
3. Glass shelving in the bathroom not been supplied as per the contracted inclusions.
4. Appliances such as dishwasher (DeLonghi cheaper model) and Range hood (Tisira) have been **substituted for Bosch branded items as per the contracted inclusions.**
5. Vanity (no brand name), Basin mixer (no brand name), Toilet suite (Zeavola), Shower jet (no brand name), Shower mixer (Phoenix), Toilet roll holder (no brand name) and Towel rail (no brand name). **All these should have been Caroma according to contracted inclusions** list.
6. Laundry mixer (Phoenix) **should have been Caroma** as per the inclusions list. Items 4 to 6 should have been of a similar value and/or equivalent quality as per the contracted inclusions.
7. Dryer has been installed upside down.
8. Missing bottom part of the downpipe near the Gas meter needs to be fixed. One of the rear down pipes was clamped halfway only.
9. Even after several emails I have not been advised the colour of the paint used.
10. Keys to the Garage door have not been supplied in case of the remote control is faulty or a power failure I cannot lock the garage roller door.
11. We have never been handed over any Electrical Safety Certificates related to the work been carried out.
12. No catalogues, operation manuals, invoices or warranty certificates provided to any of the products installed.
13. There is a wide gap in the sliding door when closed (doesn't close flush).

Shown below is an extract of an independent Door Installer who inspected this sliding door to see what need to be done to rectify the misalignment and gap of the door.

***"In regards to my visit to your property at [REDACTED] please note my following observations regarding the issues with your rear sliding door installation.***

1) *The stiles are not in plumb making alignment of the doors to the jamb and fixed panel difficult.*

2) *The bottom sill is not installed level, with approximately a 5mm bow in the centre of the track, again making alignment difficult.*

3) *The door is not able to be lifted from the track to service the carriages and rollers. This is a manufacturing issue as the wheels do require replacement as they wear from daily use”*

**Major issue:**

Our A/C and heating system has been broken down for well over from Sept 2017. I have sent [REDACTED] (the builder) several text messages asking for information related to the indoor unit but to no avail. I have not been provided with any warranty details to contact Fujitsu. As I have not been assisted by the builder to get it looked at I have contacted Fujitsu direct. When the Fujitsu Tech arrived, I was advised that the indoor unit couldn't be located.

When my brother contacted [REDACTED] to find out where the indoor unit is installed he refused to accept any liability saying, *“the supply and installation was not carried out by me or my company, or the building company for that matter.”*

But the inclusion list clearly shows that I was charged \$7,800.00 for the supply and installation of the A/C. I must emphasise that I have not hired a third party to supply and install the A/C.

Although he refused to accept any responsibility for the supply and installation of this A/C, when my brother questioned as to why there is no manhole to the indoor unit, [REDACTED] emailed saying the air intake was close enough to be used as an access point. Shown below is the image of Air intake hole when the Grill is removed. I cannot imagine how anyone can go through this into the ceiling, even if the ducts are removed. Shown below are two images of the Air intake when the grill is removed.



As there is no manhole to the indoor unit, I had to hire a handy man in hurry to cut a manhole to the ceiling, which is visible in the above image next to the air inlet (unpainted).

The A/C Technician has visited my house five times so far but we still do not have any heating in this very cold winter. My two years old son is getting sick very often due to lack of sufficient heating.

After five visits the A/C company (Fujitsu) agreed to replace the indoor unit through their agents Proactive Air Conditioner Service at a cost of \$7,000.00 via the roof as the current location has become a confined space with only a 20mm gap to work on, which is an occupational health and safety hazard. The current location seems to be a cost cutting measure by the builder and the installer

without taking into consideration any future services and repairs. Otherwise no builder will install an indoor unit in the ceiling without giving access to where it is installed.

The Fujitsu Agent has quoted \$7,000.00 to relocate the indoor unit to a place where any future repairs/services can be performed without any access issues. This unit is only two and half years old and still under warranty according to Fujitsu. I have already paid \$7,800.00 to the builder for this unit and I really cannot afford to pay another \$7,000.00.

As the only quote I have received to relocate the indoor unit seems to be very high I have invited [REDACTED] to submit a quote but he declined to provide me with a quote and an extract of his email is shown below: -

***“Upon my inspection on 13<sup>th</sup> of July, I advised the owner Janodha that the Indoor unit of the Fujitsu Ducted A/c at the above site seems to have been installed without due consideration for future repairs and services.*”**

***It is installed under two Beams of the roof and cannot be reached for repairs or removed without cutting the two beams inevitably compromising the integrity of the roof structure. Also there is not enough space to attend to any repairs, as it has become a very confined space.***

***As such, I regrettably decline to submit a quote for any repairs or replacement of this unit although it is under warranty.”***

As such, I request you to look into this as a matter of urgency as my family is struggling to keep warm without heating.

Every time we ask for information or documents related to the products installed in my house no written or verbal response has ever been given to any of my emails or phone calls but the verbal abuses.

He has never responded to any of my emails, but has once responded to my brother, as stated earlier, claiming to have not been involved in the installation of the A/C.

As such, I request you to demand the following from the builder:

- Carry out the rectification work indicted above 1-12 without further delay.
- Builder to pay \$7,000.00 to Proactive A/C Conditioners to relocate the A/C to a suitable location where any future repairs and services can be carried out with easy access.
- Replace substituted appliances with the products listed on the inclusions list.
- The builder to pay me \$400.00 that I had to spent on hiring a handyman to cut a manhole in a hurry.

- Handover all the catalogues, warranties, Electrical Safety Certificates, invoices etc. related to warranty products installed as per my email dated 02/10/2017.
- Advise the colour of the paints used as per my email dated 09/08/2017
- **All the rectification work to be completed within a specified time period.**

Upon completion of the rectification work I request an independent assessor at my choice to assess this work to ensure it has all been satisfactorily completed. The cost of the assessment should be borne by the builder.

Please find enclosed documents related to this matter.

I look forward to the opportunity to meet you, discuss further and finalise this.

Kind regards,  
Janodha Jayasekera

IN RESPONSE TO MY ABOVE LETTER I HAVE BEEN ADVISED BY ACCESS CANBERRA IN THE FOLLOWING LETTER THAT MY HOUSE HAS BEEN BUILT ACCORDING TO THE AUSTRALIAN CONSUMER LAW AND AS SUCH, THIS MATTER HAS BEEN CLOSED.

*Good morning Janodha*

*Thank you for contacting Access Canberra.*

*I understand you have advised in your complaint there are several defects with the property you purchased from [REDACTED] I note the main issue is with the air conditioning/heating unit installation and access availability.*

*Access Canberra have discussed your complaint with [REDACTED]. The issues you raised in your complaint were communicated to the company. They responded advising they are of the opinion they have met all requirements under Australian Consumer Law in the completion of your property, including the issues you have noted in your complaint.*

*I understand you may not agree with this assessment. Unfortunately, Access Canberra is unable to adjudicate in a dispute and cannot compel an outcome.*

*If you feel your rights are being negated and you wish to pursue the matter further, I can only suggest that you seek legal advice regarding the matter. You may be able to obtain some legal advice from the ACT Law Society who provide free 15 minute appointments. They can be contacted on 62740300.*

*I would advise you to take advantage of these services to discuss the merit of your case with a solicitor. If you wish to take further action you will then need to contact*

*the ACT Civil and Administrative Tribunal (ACAT) on 6207 1740 and obtain an information package.*

*I trust this information is of assistance to you.*

*Kind regards*

████████████████████  
*Access Canberra / Complaints Management Team*

I am surprised to see how Access Canberra Officials accepted the builder's version ignoring my photographic evidence. Also they failed to make a site visit and inspect the issues I have raised.

But when I contacted the HIA I was advised that it is paramount to provide access to the ceiling via a manhole. Based on this advise I wrote to Compliance Registrar at Access Canberra requesting to send an inspector to properly investigate the issues with the A/C and access.

To my amazement I found out Compliance Registration office is also under the same Manager ██████████ who refused to take any action on my previous complaint. The response to my complaint related to Compliance Registry is shown below.

*Good Morning Janodha*

*As per our discussions yesterday, the Building Act 2004 s.42 states the requirements for carrying out building work. This is what a builder must comply with when building a new house or renovation. S.42 states that the materials used in the building must comply with standards under the building code and the way the materials are used must comply with their acceptable use under the building code.*

*Under the building code an air conditioning unit is not required to achieve compliance with the code, and would be considered an optional fixture. Therefore there are no standards in the building code as to how one must be installed. Therefore as there is no requirement under the code there is no requirement under s.42 as to how one must be installed.*

*As there is no requirement under the code and in turn s.42 there is no breach of the Building Act by the builder and therefore there is no action that can be taken in relation to that matter. The same goes for paint, paint is not required to comply with the building code and no action can be taken in relation to that element of your complaint.*

*To pursue the matter further, you are able to submit an application to the ACT Civil and Administrative Tribunal (ACAT). ACAT can be contacted on 6207 1740.*

*Before doing so, it is suggested to seek legal advice regarding the merit of your case. You may be able to obtain some legal advice from the ACT Law Society who provide free 15 minute appointments. They can be contacted on 62740300.*

*Access Canberra is satisfied that no further action is required in relation to this complaint and no further action will be taken.*

*Should you have any questions please feel free to contact me.*

*Regards*

██████████

██████████

*Rapid Response Team  
Building and Planning Compliance  
Access Canberra*

I must emphasize that none of the issues I have raised above have been rectified and my house has no heating or cooling since September 2017.

But Access Canberra following staff members who were involved in this matter believe this house has been built according to the Australian Consumer Law. The Senior Investigating Officer ██████████ advised me over the phone that my house do not need a manhole. But he failed to answer when I questioned him how someone access to the faulty indoor unit inside the ceiling.

As such, I request you to demand the Access Canberra to send an impartial investigator to inspect the defects and force the builder to rectify the issues I have raised.

Also may I request that ██████████ of Access Canberra be removed from my case as my perception is that these four individuals have no interest in protecting the tax payers but to protect the builders. Otherwise they must be able to explain as to why they failed to assist me at least a single issue rectified.

Another point I have observed is that these four individuals do not have any knowledge to understand the issues I have raised. But at least they must have common sense to hire a knowledgeable person to seek advice without relying on dodgy builders and pushing taxpayers further into the deep.

I am happy to provide further photographic evidence and documents if required.

Kind regards,  
Janodha Jayasekera.

Item 1. This is how the A/C indoor Unit is installed. Beams cut and compromised the roof structure.



Item 1 - This is how the A/C Indoor Unit is installed. Beams been cut.





ITEM 8. DOWN PIPE CLAMPED HALFWAY

