

Sent: Monday, 17 September 2012 12:40 PM
To: Transport Housing and Local Government Committee
Subject: re: procedures & overall approach to dispute resolution

To the Research Director

I am sending this email, not as the householder affected by BSA decisions, but as a very close relative who attended all but one important meeting between the BSA, Contractor and the affected party, (with the exception of maybe occasional visits when BSA representatives may have called in to his house)

I have grave concerns about the way that the BSA handles disputes, also the capabilities of their representatives.

The case in question came about due to, what I consider is (1) apparent lack of knowledge on the part of the Contractor (2) his unwillingness to discuss or fix the problems which were pointed out to him and (3) the lack of competent conflict resolution skills on the part of the BSA representatives.

The Contractor was engaged to raise, restump and change the sub floor structure of the house (which he claimed he was licenced to do). The job was commenced in November 2000. After a period of time (approx. 12-18 months), when there was no action taken by the Contractor, we then sought assistance from the BSA. The first member of the BSA came to the house and informed me that there was only a 3month window for us to complain to the BSA although there was a 6 year 3 month period where the BSA could initiate rectification work. I would point out that 3 months was certainly not a reasonable time for the faults to become apparent and I believe, for this type of job, there should be more than a 3 month period for reporting to the BSA as the work done was not all visible (under the ground in our case), and as time went on, more and more problems became apparent. This BSA representative was not interested in listening to what we saw as problems and did no investigation whatsoever. His only interest was that the ground movement in the area (in his opinion) was the only problem! Consequently he closed the file without any investigation and the Homeowner had to seek political assistance to have the case re-opened. After the BSA representative left the property on the first visit, I advised the Homeowner to engage an engineer so that he had some type of professional assistance as it was clear that the BSA were not interested in anything that he or I had to say.

The problems that I see because of my experience with the BSA, are as follows:

(a) INSURANCE - From my observation, the Insurance Certificate states “restumping & or associated work to existing building”. The actual job was “raising, restumping, and changing the sub-floor structure”. I would think that restumping would carry a lesser risk than the work that was carried out as outlined above. I believe that the actual work carried out should have been listed on the Insurance Policy so that it was clear just what would be covered by the Policy.

(b) LICENCE - I believe that there should be more attention given to the “scope of work” that can be carried out by the Contractor. There seems to be a difference of opinion within the BSA as to this particular Contractor’s licence and I have letters to justify this claim. Surely in an organization such as the BSA there would be no problem outlining the validity or otherwise of a Licence. There should be one opinion and one opinion only on Licences.

(c) CONDUCT OF MEETINGS – Four BSA representatives came to the property and conducted/observed meetings between the disputing parties (and their representatives), and only one took any notes whatsoever. The one representative who took notes however, was not strictly accurate because he stated that it was said that the Contractor used “site-mixed concrete” whereas he did in actual fact use “site-mixed DRY MIX concrete. Without adequate notes the BSA are then in a position to deny any or everything that was said in meetings. At a meeting in 2003 (I believe the date to be 17 July but would stand corrected), the BSA representative at that meeting told the Contractor to have his engineer redraw plans for the footings of the stumps and then supply that information to the Householder to allow him to seek advice from his engineer. This was never carried out. The Homeowner was also advised to settle the height dispute which the BSA previously told him was a “Contractual problem” and that he would have to seek a determination in the tribunal. The BSA representative stated that it was silly to issue a rectification order unless the height problem was resolved because if it was resolved in the Homeowner’s favour, then all work carried out would be for naught because all stumps would have to be pulled out.

Without checking whether the instruction to the Contractor or the advice to the Homeowner was carried out, the BSA issued a Direction on 2/12/03. By this time the problems with the house had gone from “soil movement” to 16 faults which were listed on Rectification Direction 25812 dated 2/12/03.

I might point out here that the Homeowner had endeavoured to talk to the Contractor with reference to the height and the only answer he got was “that’s your problem”. In view of the fact that the height problem was subject to a challenge in the Consumer Tribunal, the Homeowner advised his solicitor of the fact that he was unable to speak with the Contractor to settle this problem. He then left it with his solicitor for his attention.

On the 22 January the Contractor arrived to arrange a starting date for the Rectification (dated 2/12/03). In view of the fact that the Contractor had not fulfilled the verbal direction of the BSA representative (given at the July 2003 meeting), the Homeowner told the Contractor to talk to the Homeowner’s solicitor and sort the height problem out with him as it would be a waste of time to carry out the Rectification without first settling the height dispute as previously stated by the BSA representative. The Contractor then contacted the BSA claiming that the Homeowner had refused him access to carry out the Rectification

Order. (This was not a true statement). However the BSA closed the file because of this statement without even checking with the Homeowner. (All the Homeowner was doing was trying to comply with the verbal advice from the BSA). This started a procedure which allowed the BSA to get off the hook and tens of thousands of dollars outlay on legal bills by the Homeowner. I could also advise that the Homeowner's solicitor requested the BSA to reopen the file and this apparently was ignored.

There is MUCH more detail which could be pointed out if I was to get the opportunity to present the case to the Committee.

Finally I believe that the BSA should be thoroughly investigated from the top, going down to those responsible for dispute resolution between Contractor and Homeowner, because the BSA representatives that I, (together with the Homeowner) spoke to, had very poor dispute resolution skills and I consider their knowledge and procedures were at very least, questionable. In my experience, faults in an organization start with poor management and I believe a full and open investigation into the total operation of the Building Services Authority is required.

Yours sincerely,

Nev Whittle