


Mental Health Impact Statement for Home Owners re Building Disputes and Queensland Building Service Association

Preamble

I am a fully registered Psychologist in Queensland and am a full member of the Australian Psychological Society.

I have been in private practice in the Cooloola and Sunshine Coast region since 1999.

My specialty areas are Anxiety, Depression, Neuropsychology, work related issues, family mediation and stress management.

I am the principal Psychologist of Buderim Clinic, and part of a consulting group involved in education in the workplace.

I frequently prepare Medico Legal reports and reports used in determining matters in the Courts pertaining to Criminal matters, Criminal compensation, Family Law and Workers Compensation.

I have provided consultation and professional supervision for both conditionally registered Psychologists and fully registered Practitioners, and facilitate a mentoring program at Buderim Clinic.

Overview

Whilst it is acknowledged home owning in Australia is a significant part of our culture, and is the largest financial investment one will make in their lives, little attention has been given to the impact on individuals lives and mental health when renovations or building projects do not go according to plan.

The following is a summary of some of the difficulties and psychological ramifications of building disputes.

Homeowners participate in building contracts in good faith. They believe they have selected an appropriate builder or company (usually having conducted investigations on the BSA website), they have a set of approved plans, a legal Master Builders Contract or Queensland Building Services Authority Contract. Homeowners have fulfilled their obligation, they have produced evidence money is in place, and they are of the understanding they are protected by insurance that is backed by the Queensland Statutory Authority; the Building Services Authority (BSA). People undertaking this process are prepared to have their life disrupted and the financial implications associated with building or renovating, knowing they have a finite period of time to endure in order to achieve the benefit of their specific desired results.

Common Types of Problems that Occur

Unnecessary lengthy delays in building, (adding to the financial strain and personal toll),

Requests for additional funds,

The plans may not be adhered to or may have been altered without consultation,

The standard of work is unacceptable and does not meet the legislated requirements of the Domestic Building Contracts Act or the Queensland Building Services Authority Act,

Alterations are not in writing,

Subcontractors work is substandard, such as termite proofing, waterproofing, tiling, painting,

Unskilled labour is used during the construction process,

Defective or damaged items used such as roofing materials, bowed weatherboards and timbers,

Water penetration,

Lack of adherence to the engineer's plans,

The builder has not attended to the contract, specifications and associated documentation adequately.

In all of the above scenarios, BSA has the power to issue penalty points, at \$100 per penalty point, these points accrue in the form of a fine for the builder or company if these matters are not attended to adequately, or if the standard of work reflects badly on the industry, additional penalties may apply, such as demerit points, which can lead to a three year ban.

Initial Building Services Authority Involvement

It is under these circumstances BSA are engaged to mediate between the builder and the homeowner, and achieve the best outcome, presumably for the homeowner as the builder has breached the Domestic Building Contract Act and the Queensland Building Services Authority Act. BSA advises the homeowner has the protection of the Home Warranty Insurance scheme available to them to have the home adequately completed, without further cost to them. The BSA then seeks reimbursement from the builder.

Homeowners' initial experience with BSA is frequently positive. They are often advised the problem(s) will be fixed, so it is in this context that after months of stress, angst, frustration and financial burden, the homeowner frequently has a short lived window of relief that someone with authority and common sense is now in charge of the situation. Unfortunately in numerous cases, this positive relationship with BSA does not continue. Often the extent of work to be repaired is reduced, the standard of work remains unacceptable, and in too many cases the Home Warranty Insurance is denied citing contractual issues or inconsistencies between the parties. Homeowners, facing financial ruination, are pushed by BSA toward QCAT, thus incurring more stress and expense, and in many cases whilst living in substandard conditions.

Psychological Impact & BSA's contribution to Psychological Distress

By the time BSA is engaged, homeowners frequently are psychologically unwell. It is not unusual to observe an extremely severe Adjustment Disorder with Mixed Emotions. This diagnosis is a result of stressors beyond the individual's control and requires the presence of an identifiable stressor. The Mixed Emotions are a combination of Anxiety and Depression; the condition can be acute however in these situations chronicity is far more likely, with the disturbance lasting in excess of six months. Adjustment Disorders are associated with suicide attempts, suicide, excessive substance abuse, and somatic complaints. It manifests as decreased performance at work, changes in social relationships, and rising conflict with homeownership partners.

The mood component (anxiety and depression) is frequently associated with concerns regarding the outcome of the dispute, financial strains, often lawyers are engaged and funds spiral out of control, furthermore individuals are frequently inundated with additional paperwork as they are forced to justify their position.

This type of anxiety is a result of an additional Allostatic Load (stress) and various hormones (HPA Axis) are released in order to cope with the additional physical and psychological demands. This results in disrupted sleep, reduced appetite, poor concentration, panic attacks, extreme irritability, lack of pleasure in previously enjoyed activities, impending sense of gloom with respect to the future and memory loss. The health implications are numerous with elevated blood pressure, higher cholesterol, a vulnerability to heart attack and stroke.

Whilst the diagnosis may be evident as an initial result of the building dispute, it is exacerbated by BSA's actions.

As time progresses depression often ensues. Physically this category of depression is a result of elevated neurotransmitters in the brain such as Norepinephrine, and increased hormones associated with the HPA Axis, (cortisol and adrenalin) all of which erode the efficacy of serotonin (a neurotransmitter associated with depression). Psychologically the impact of this type of depression displayed in these circumstances is well documented by Seligman's Learned Helplessness research. The definition of Learned Helplessness is:

"A psychological state whereby people feel powerless to change their situation."

Essentially, it means that the person feels as if change is not possible, since there is a pervasive and unchangeable personal problem.

People develop this symptomology as a direct result of feeling out of control and not being able to exercise any positive effect over what is happening in their life. Psychological wellbeing is manifested by problem solving and implementing solutions to problems. BSA's actions unfortunately contribute to anxiety and depression substantially by making the homeowner feel powerless in the face of what is obvious mismanagement by the builder.

When an individual considers they have done all required to ensure a project is conducted according to plan, read the relevant legislation, seeks assistance from BSA and feels completely thwarted by those whose role is to resolve these difficulties, it is akin to having mental road blocks at every turn. Many homeowners legal advice and research of the legislation enables them to understand their legal position, however too often BSA arbitrarily refuse to comply with what is not only common sense but clearly stated in the relevant legislation.

Numerous examples of this behaviour include:

*The builder is considered to be the expert and the homeowner the lay person. If contractual details are unclear, it is a legislated offence incurring penalty points for the builder and should be noted on his license. Frequently it is the homeowner whose rights are compromised.

*BSA forces the homeowner into QCAT incurring additional unnecessary cost and stress, when “they are the decision making body, and the tribunal is there to review their decision” (Robert Schwarten Minister November 2003).

*Home Warranty Insurance being denied when a homeowner clearly meets the criteria for approval.

*BSA not supporting the homeowner despite the business being "under investigation" for numerous breaches.

*There are issues in which contractors are protected even when reasonable doubt is obvious of trading whilst insolvent.

*Defective work is reduced in BSA Direction to Rectify.

*No repercussions for the builder for a Failure to Rectify.

*Unsatisfactory work is considered acceptable.

*Frequently there is no warning of the above issues on the BSA information website.

*A licensee who accumulates 30 demerit points over a three-year period may be banned for three years. If they return to the industry, and within 10 years of the first ban, accumulate 30 demerit points over three years, they face a life-time ban. Wrong doing such as "unlawful carrying out of building work" is overlooked and Demerit points are often not issued. Furthermore, on occasion, SPER fines are not pursued.

*Too often there is well documented conflict of interest between BSA staff and contractor.

*In contractor dispute issues causing rectification and/or completion of works under the insurance scheme monies are to be recovered from the contractor. It has proven difficult to obtain these statistics in which the contractor has been pursued for costs; it appears to be extremely uncommon.

BSA is commonly called a "Toothless Tiger"; this is not the true nature of psychological distress caused to homeowners. The psychological impact is a result of BSA being seen as protecting the builder, when it is clearly the builder who has created the chaos in the lives of the homeowner and their family.

The distress is a direct result of frustration of what should clearly be within the homeowner's rights to have repaired or completed and the obdurate behaviour of BSA, who often provide reasons that are not only inconsistent, but are contrary to the Domestic Building Contracts Act and the Queensland Building Services Authority Act. All too often these inconsistencies are highlighted in the media when an individual's plight is raised, and Jennings immediately rectifies the situation, despite the person requesting this, in some cases for a number of years.

This level of despair leads to feeling increasingly suicidal as the only means of resolving the mess in which they have found themselves. Once the building dispute is finalised, too often unsatisfactorily for the owner, individuals can no longer place themselves in the position of thinking about what has happened or pursuing their rights. It is not uncommon for suicidal ideation to continue, and for the homeowner to have continued psychological distress when viewing advertisements for BSA, newspaper reports of BSA, and the prospect of opening old wounds for a submission appear an insurmountable challenge.

Conclusion

Homeowners too frequently are lambs to the slaughter when dealing with the building industry. Those Government staff paid to protect homeowners in the form of BSA appear to take easy options, do not improve industry standards by enforcing penalties against builders or companies, and there are numerous examples of a conflict of interest between builders, building companies and associated industries which compromise fair decision making. There is ample evidence of BSA pushing homeowners to QCAT, when BSA has the legislated authority to make decisions. Homeowners are too often the casualty of these decisions, and having exhausted their financial, emotional and psychological resources, are too mentally disabled to repeat their story in the form of a submission.

In the past six years I have spoken to in excess of forty homeowners dissatisfied and disillusioned with BSA. Many of these people have had to withdraw their complaints, having several months or in some cases, several years of 'body blows' by lawyers, BSA and QCAT. Self-preservation and the risk of suicide has forced them to attempt to put the ordeal behind them, thus their grievances and the real personal cost to owners remains unheard.

Yours Sincerely,

Catherine Cleary
Psychologist