



The Research Director

Transport, Housing and Local Government Committee

17th September 2012

Introduction: These are submissions given by Jonathan MacDonald.

Please note that at the time of writing this I am the Applicant in a matter before the Queensland Civil and Administrative Tribunal and that the Respondent is the Queensland Building Services Authority.

Further note that I am the holder of a Building Contractor License Number 22699 issued in 1989.

This license is currently cancelled and the actions of the QBSA in issuing a cancellation notice form the basis of the Application now before the Tribunal.

As stated above I have been a licensed Building Contractor since 1989 and have carried out small to medium works during this time as well as being listed on the BSA panel of Builders to carry out rectification works.

I have not ever been issued with a notice or directions to rectify by the BSA in my time as a Contractor save for this event currently before the Tribunal.

My father Ian MacDonald was issued with a contractors license in 1970 under the then Builders Registration Board and during his time was never issued with a notice of any kind other than the annual notice of renewal and payment of fees.

I consider my self to have a good understanding of the QBSA Act and the structure of the QBSA and feel confident in commenting on it's failings as well as its intended purpose.

Terms of Reference:

- Whether the performance of the QBSA achieves a balance between the interests of building contractors and consumers; Absolutely not and that this situation of imbalance has existed since the appointment of the current General Manager.
- Whether the QBSA could make further changes in order to reduce regulations to lower the cost of building a home; The current regulations are appropriate but the inconsistent administration and interpretation of regulations by QBSA Officers including the QBSA Act does have a direct impact on the cost of the process of building a home.

- The effectiveness of the QBSA to provide remedies for defective building work and to provide support, education and advice for both those who undertake building work and consumers; This item is at the very heart of all disputes involving the QBSA, the QBSA has demonstrably failed here in its attempt to provide any remedies and the QBSA use of the Homeowner Insurance Warranty is now seen by many as not being anything other than an attempt to appease disgruntled Homeowners regardless of whether the builder was at fault or the Homeowner, The Homeowner is seen in many cases simply attempting to gain financial advantage, the level and quality or even relevance of the education material put forward by the QBSA is something that must be considered as failing with the farcical "Information Nights" that I have considered for sometime as no more than tea and brisket nights that leave participants questioning the intellect of the QBSA Officer conducting them, the "advice" element of the QBSA is usually directed at the Homeowner and basically has the effect of inciting the Homeowner to engage in conflict with the Contractor. To this, I will offer a model and an example of support, education and advice demonstrated with effectiveness that produces positive outcomes for all stake holders, A company exists in Toowoomba that is a commercial private certifier of building work ranging from small covered areas to high-rise, the Principle of the business is a highly qualified building certifier completely competent in all aspects of the building process and most importantly a comprehensive knowledge of the Building Code of Australia, (BCA). This company offers town planning advice from qualified town planners, building approvals through to final inspections. This company simply does not accept building applications from owner builders or licensed builders unless they can demonstrate competence and compliance with the Building Code of Australia. Compliance with the BCA is paramount to good building and anyone wishing to perform building work needs to demonstrate an understanding of the BCA. This company is rapidly becoming the largest certifier in southeast Queensland and it is doing this as a result of its practice of sticking to the rules and the entire office staff has a very professional approach to correct procedure. The company has a building inspector that is a former building contractor and is deemed by experience competent to inspect works both commercial and domestic and in the performance of his duties a detailed record of the works is made including photographic records of all known areas of potential failure. The key to the success of this company is not only the trained and professional office staff processing the applications but also the inspector in his relaxed non confrontational manner that has quietly but effectively educated all of the trades on the sites he visits to simply comply with the building code. This building Inspector does not have disputes with builders or homeowners as the work complies or it does not and he is open and positive in offering solutions to rectify issues before they escalate, I personally find it offensive and at the same time amusing to see members this extremely competent company religiously attend BSA "education nights" and sit through the mumbling dribble of a completely incompetent and unskilled BSA Area Manager intent on lecturing a generally professional building community on matters he himself has no grasp on.

- The governance arrangements of and between the board and the General Manager; this needs to be addressed as soon as possible as I would suggest that the incumbent General Manager of the QBSA has completely run this department under his own ideals under the protection of the former Minister and has demonstrated a total disregard to act fairly or impartially and further suggest that scrutiny of this persons relationship with Horse Racing Administration Executives and high profile Horse Racing identities will reveal disturbing results.
- The effectiveness of the Homeowners Warranty Scheme and its protections; this is a good thing in principle but has been abused both by the Homeowner and certain BSA Officers, it should be considered as a last resort only if and when the compliance issues have not been addressed and that they should have been identified during effective inspections by competent persons.
- Whether the currant licensing requirements of the QBSA are adequate and that there is sufficient auditing processes to maintain proper standards; this could be made more easier to police as the license holder must demonstrate competence to gain a license and substandard work should be noted by a building inspector and a halt on works until rectified, ie concrete work should be inspected on completion and before the next stage and then rectifications can be made before proceeding thus eliminating difficult rectification and the proportioning of blame aspect after the building has been constructed, Concrete contractors must be licensed and held responsible as this is not the currant position and it is simply not an effective means of control for the builder to have to enforce compliance of the BCA over a poorly trained concreter.
- The number of trades licensed by the QBSA and whether Industry groups could take a greater role within QBSA in terms of licensing standards and procedures for their members; the QBSA needs to be in control of all licensing of Building trades as the Authority, with out any involvement from industry groups as industry groups are self interested and cannot be allowed to control standards, training of trades should be under the direction of the QBSA ,not the specific coarse but control over the level of training provided by training facilities for example a young person can attend a coarse and gain a certificate and then by out on site carrying out works beyond his/her level of skill, compliance to the BCA by trained and competent persons including inspectors is a safe pathway to better building and will ultimately alleviate disputes, human greed will always be a factor but good governance is there to manage it.

- Examining opportunities for reform of the Authority with a view to enhance assistance for both industry and consumers; I would suggest that the QBSA be re branded as an advocate for good building practice not just the Authority this would go some way to gain respect from all stakeholders as being the licensing Authority for all trades and a source of sound advice on good building practice and to develop a better understanding of the relevants of the BCA by builders and consumers, the staff of the Queensland Building Regulator (suggestion) should be polite, helpful and knowledgeable and that the field Officers should be competent and possess an understanding of building practice as well as the BCA and not to take a judgmental stance, the Officers would have the training to act in a mediator role to defuse potential conflict, A comment made to me as a builder by an ill-informed QBSA Officer when a issue arose over additional works (extras) as they are known was "the homeowner has a right to expect things they want are included in the contract and shouldn't have to pay extra for them" I suggest that this logic applied to any other purchase of any goods anywhere in the world may incite disagreement. This comment indicates that the consumer has a duty to make decisions regarding the purchase of building works are based on their means and not desires and that they are not able to enlist the support of an Authority to facilitate their desires.

I would like to thank the Committee for this opportunity to make these submissions.



Jonathan Macdonald

