

20/09/2012.

Submission to the
"Inquiry into Operation and Performance of the Queensland Building
Services Authority".

By: Dr. Wathib JABOURI, [REDACTED]
[REDACTED]
[REDACTED]

This submission is based on Terms of Reference of the public briefing submission, submitted by Mr. Nick Newton, Chair of the Building Advisory Group, on 27/08/2012.

1. Is there any balance, in QBSA's performance, between the interests of the contractors and the consumers?

Based on our rich sad experience with the QBSA, our answer is "NO". The following are reasons and facts supporting our answer:

The QBSA plays two conflicting roles. These are the role as the building industry watchdog that licences, and only theoretically, observes the standards of the licensees' conducts and performance; and the role of an insurance company that collects insurance premiums from the licensees for the projects they carry out. As a matter of fact, all insurance companies try to minimise, or avoid, losses for claims made against their clients by people who endured damages. From the four consecutive claims we made against the rogue BSA licensee who built our house, and one claim against the rogue/incompetent private certifier, the QBSA always tried to escape from the responsibility by excessively delaying reviewing our claims in a manner that is favourable to their licensees, by looking for any excuse to escape the responsibility for directing the licensees to rectify their faults, and by telling **lies** and defying the evidence, facts, and **impudently** breaching the relevant legislations. We have a massive evidence of tens of emails, faxed letters, posted letters, professional reports of hundreds of defective works, and submissions to the tribunal. All items of evidence can be made available to the investigative parliamentary committee upon request.

2. 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.

As mentioned above, from our distressing experience with the QBSA and their rogue licencees, this organization always proved itself ineffective and biased to its insurance clients, i.e. its licencees, leaving thousands of Queensland families to fall victims of incompetent, unethical, and law-breaking licencees. The following are damning facts from our distressing experience with the QBSA:

a. In December 2009, we signed a contract with a company called "[REDACTED]" and paid them \$17,500 as a deposit. Three weeks later, that company went into receivership, with media reports showing the company's director had a criminal history in the ACT before moving to Queensland and obtaining a QBSA licence to continue hunting for new victims. We had to then go through a lengthy tiring process to recover the deposit amount through the BSA Home Warranty Insurance Scheme.

b. Three months later, namely on 30/03/2010, we signed a new contract with the small QBSA-licensed builder of "[REDACTED]". The builder was supposed to finish construction in 6 months, however, because of his lack of knowledge in the building practices and standards, he continued delaying the construction until we issued him with a Notice of Breach in April 2011, where he did not attend to remedy of the breaches, and failed to surrender the building keys. We had to change the house's locks, and refer the matter for the 4th time to BSA. The builder's nominee, [REDACTED] and his son [REDACTED] called us with threats that "Things can go wrong and get nasty if you do not pay us the final instalment!". Then we received 13 telephone calls with threats to assault us and destroy our house. Those calls were made by someone called "[REDACTED]", who claimed to be the builder's tiler requesting a payment directly from us. Two of the calls were intercepted and recorded by the police. After receiving the last call with threats of violence against us, that builder's hireling was intercepted by [REDACTED] Police patrol on 22/06/2011, in front of our property. He then stopped his threatening calls to us. A special complaint about those threats was sent to BSA, which was ignored by them as is the habitual practice in this organization.

After the 1st building complaint, and contrary to their website information to home owners, BSA claimed that they do not intervene while the contract was ongoing. After the 2nd complaint, the BSA refused to intervene claiming the builder had taken the matter to the tribunal (BSA gave him extra time of 13 days, instead of the legal 7 days period, to enable him take the matter to the Tribunal!). After the 3rd complaint, the BSA refused to intervene claiming the matter was settled in the Tribunal (The settlement terms were failed by the builder who appeared later that he provided false information, hid crucial information about non-compliant building aspects, and failed to deliver the inspection certificates required by Section 39 of Domestic Building Contracts Act 2001). After the 4th complaint, the BSA refused to intervene, claiming the matter needed fresh application to the Tribunal!

We signed the contract with a faith that the licenced builder, [REDACTED], came through detailed and precise BSA checkups of his skills level, criminal history, qualifications, and financial capacity. After signing the contract, we could never find him supervising the building site, while subcontractors were working from time to time without supervision from him. He always kept his mobile blocked and his whereabouts unknown. People who gave him a licence shall be brought to account, because they have seriously breached BSA's prominent slogan of "Helping Queenslanders Build Better", and contradicted Ian Jennings's media announcements praising the would-be peace of mind Queensland home owners would have through engaging a BSA licenced builder! We feel, like thousands of other home owners, that we have been betrayed and fallen in a trap of a rogue licensed builder who has no clue of building procedures and regulations, who always failed to supervise the construction work, who does not hesitate to tell lies to every one. We are able to provide 45 reminding letters we sent to him during the construction of our house (15 months instead of the contract's 6 months!), and professional inspections lists indicating at least 240 defects/non-compliant/unfinished works, with more defects appearing with time.

The settlement agreement, signed between the parties at a QCAT compulsory conference, was not honoured by the builder, who failed to provide the four-stage inspection certificates and other certificates required by the Domestic Building Contracts Act 2000 (Section 39), the BSA Major Works Contract signed between the parties, and Subsection 32 (2) of Building Regulation 2006. The certifier was re-engaged by the builder on 02/07/2010 (Refer to material evidence in our BSA file- builder's email of 08/07/2010, and Paragraphs 4 & 12 of the Meeting Minutes of 01/08/2010 between the two parties and 4 witnesses, and audio recording of the same meeting). All such evidences were provided by us to BSA with our four consecutive complaints.

c. BSA staff have dealt with our complaints with a clear tendency to escape from the responsibility for compensating us for over 240 defective, un-finished, and non-compliant works that were left without remedy, and without providing us with the statutory inspection certificates required before making the final payment to the builder. The following, are examples of misconduct and corruption of BSA staff members:

[REDACTED] (Manager of BSA North West Region):

This lady's husband is a builder and a friend of the builder who built our house. While holding a position of a Manager of BSA North West Region, she hijacked our 4th complaint against the builder, while our house is located in the BSA South Region! She called me on 08/11/2011, to openly show support and advocacy for her friend, the builder, and to be very aggressive and rude in her way of talking to me. She admitted that the builder had leaked to her the confidential settlement agreement we signed in private and confidentially with the builder at QCAT [Breach of Subsection 70(2) of QCAT Act]. On 13/12/2011, we sent a letter of complaint against her to BSA General Manager, [REDACTED]. After four months of repeated emails and phone reminders to him, he responded to our complaint on 10/03/2012 without commenting about her rude and aggressive behaviour, without explaining the

reason she took over our complaint while being out of her area of jurisdiction, without explaining the excessive delay in his response, and without taking any disciplinary measure against her.

██████████ (BSA General Manager):

After our four complaints against the builder, and after ignoring three telephone messages left with his secretary, he inspected our property, with his Operations Manager, on 20/12/2012. We showed them the massive 240 defective, unfinished, and non-compliant works left by their rogue building licensee. He promised to come back to me with a solution immediately after the New Year holiday. As usual, he did not keep his promise. After several emails, faxes, and telephone messages, he emailed a letter four months later, on 13/03/2012, with false claims and clear attempt to escape from the responsibility as a manager of a would-be building industry watchdog.

In his aforementioned letter to me, Mr. ██████████ lied about him not receiving the abovementioned settlement agreement, while he forgot that when he inspected my house on 20/12/2012, with his Operations Manager, he started reading out clauses of the same agreement document, and discussed with me the document's contents and the circumstances surrounding signing it by the parties.

In his aforementioned letter to me, and contrary to the Home Warranty Scheme, Mr. ██████████ falsely claimed that BSA dose not intervene in construction's non-completion matters. In fact, we legally terminated the contract after 15 months of non-completion of the building work, where the building contract specified six months construction time only. The builder had his licence cancelled since November 2011, so as to escape from any further liability for the massive 240 defective, non-compliant, and incomplete works.

As usual, Mr. ██████████ had ignored my two emailed complaints of 18/05/2012 and 07/08/2012, in which I complained against BSA negligence of processing my surrender, of the unused owner builder permit, on 04/05/2011 as required by Sub-Section 44J of QBSA Act 1991, in which I requested the permit to be removed from BSA Registry and the Title Registry. When I sent him the 3rd reminder on 03/09/2012, with an ultimatum that if he was going to continue ignoring my repeated complaints I would then refer the matter to CMC, the Ombudsman, the Minister of Housing, and the media. Two days after my ultimatum to him, he emailed me to claim that he instructed his staff to immediately process my application after 16 months delay! He only apologised for the inconvenience caused to me, but not for his staff's misconduct and deliberate delay that only served the interest of the rogue builder who caused to us an ordeal that is still ongoing.

██████████ (Manager of BSA Licensing Section):

Although I supplied to her all the necessary documentation showing that our home was constructed by a BSA licensed builder, who also paid for the BSA Construction Insurance, Ms. ██████████ constantly failed to remove my unused owner builder permit from BSA Registry and the Title Registry. She ignored

my emailed reminders of 14/06/2011, 15/06/2011, and 17/06/2011, where she was told that her failure to remove the surrendered permit from the registry was a breach of Sub-Section 44J of QBSA Act 1991. As mentioned above, the permit was removed by her boss after **16 months** delay when he received our final ultimatum to take the complaint to other statutory levels. It's just a dominant culture inside BSA, where deliberate negligence, shamelessness, defiance of legal provisions, lack of accountability, avoidance of responsibility, corruption, and law-breaking, are prominent feature of such culture.

[REDACTED] (Senior Audit & Investigation Officer, BSA)

After six months of waiting to process my complaint against the BSA-licensed building certifier, Gary Holley (Licence No. A924474), and after several emails, faxes, letters, and telephone reminders; Mr. [REDACTED] sent me a letter on 01/11/2011. In his letter, he falsely claimed that my complaint was received on 01/11/2011. In fact, my complaint was sent to him six months earlier, i.e. on 30/05/2011!

In his letter, Mr. [REDACTED] ignored many items of evidence I provided, and only repeated a litany of lies presented by the certifier, and relied on them to justify lack of action by BSA.

The certifier lied about sending me a copy of the inspection certificate for the stage of footings. He did not admit the fact that he was re-engaged by the builder in July 2010. He hid the fact that he conducted the final inspection in April 2011 and issued a Notice of Non-Compliance (Form 61) to the builder, while leaving me uninformed about all such facts during the whole period of 15 months of our troublesome house construction.

Until now, we as owners of the house, do not have the crucial statutory inspection certificates for the slab, the final stage, the height certificate, the waterproofing certificate, the driveway grade certificate, the termite barrier certificate, energy efficiency certificate, and rainwater tank installation certificate.

3. 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.

From the evidence mentioned above, because the BSA is playing two conflicting roles at the same time, thousands of home owners have been betrayed by the BSA permanent tendency to find any excuse to escape from the responsibility for directing their licencees to rectify their defective works, or to do the rectification itself through the Home Warranty Scheme. They have been licensing builders who are incompetent, undereducated, with criminal history, financially incapable, or unaware of the building practices and standards. BSA General Manager, and many of his staff members, have no feeling of accountability and no fears of any consequences for their actions.

4 The effectiveness of the Queensland Home Warranty Scheme and its protections.

For it to be successful and protective of all parties interests, this scheme should be managed by a specialist body that is independent from BSA, where the latter should only play a sole role as a building industry watchdog.

5. Whether the current licensing requirements of the QBSA are adequate and that there is sufficient auditing processes to maintain proper standards.

The current BSA licensing system is faulty and inadequate. It allows people with criminal history to penetrate it (Example: Director of [REDACTED]), and it allows a person, without any building-related training or qualifications, to obtain a BSA licence if they have only a nominee who holds the building qualification (Example: Director of [REDACTED], who has no training or qualifications, while his father, [REDACTED], has the builder's technical qualification. His father had no clue about his son's ongoing messy/defective work in building our house until I called him 9 months later asking him to immediately intervene and clear his son's mess).

6. 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 tradespeople should be licenced by specialist panels. Severe penalties should be legislated against any panel member who fails to declare their personal links with candidates applying for a licence. All candidates should be checked for relevant trade competency, credit and criminal histories.

7. Examining opportunities for reform of the Authority with a view to enhanced assistance for both industry and consumers.

a. The BSA staff should be banned from repeating their irresponsible advice of "Seek legal advice" to clients who question the staff about reasons for BSA's ongoing failure to provide the public with good quality and honest licensees, its conflicting two roles of a watchdog and of an insurance company, its excessive unjustified delays of processing public's complaints against BSA licensees; their staff's lack of accountability for telling lies, breaching the legal provisions, their staff's open bias to the licensees, and their ongoing failure to hold the licensees accountable for their performance.

b. If the BSA General Manager has been notorious, and well-known to the public, for his lack of respect to his own words, for providing a cover-up for a corrupt/lying/negligent staff, for shamelessly ignoring customers inquiries and requests to impose some level of order and decency among BSA ranks; he must be then sacked from holding such a position that is costing the taxpayers hundreds of thousands of dollars every year, massive material and psychological losses to thousands of Queensland families betrayed by the BSA farce that is ongoing for several years.

c. The BSA needs to be forced to deal with the customers complaints without frequently throwing this responsibility on the shoulder of the Queensland Commercial and Administrative Tribunal (QCAT) that cannot have its decisions self-enforced, that is crippled by a mass of corruption/misconduct/incompetency of many of its members and staff. Moreover, applications to QCAT proved to be unnecessarily wasting of time and money of homeowners who were betrayed by BSA that refused to take direct actions against their rogue licencees, and ignored considering the massive evidence of facts and legal provisions that support the customers' cases against the licencees.

d. BSA staff, who deal with complaints and licensing, and fail to disclose their conflict of interest, must be severely disciplined and punished. It would be ethical if BSA staff have no personal links with the BSA licencees.

e. Constructing a website, by the Department of Housing, that allows the public to give rating and feedback about BSA licencees and staff, so "The Bastards are Kept Honest".

Conclusion:

Given the massive available evidence to prove all claims made above, the massive deterioration in ethics and performance of BSA General Manager and other staff members, the wide-spread shortcomings in the building contractors' performance and conduct, and the interest of the Queensland public in having an effective and reliable building industry watchdog, I express my willingness to attend the inquiry.

A handwritten signature in black ink, appearing to read 'Dr. Wathib JABOURI', with a long horizontal stroke extending to the right.

Dr. Wathib JABOURI.