

Adam Webb



**BSA parliamentary inquiry submission**

Submitted to:

Ms Kate McGuckin  
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Transport, Housing & Local Government Committee  
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Dear Ms McGuckin

**Subject: Parliamentary Inquiry into the operation and performance of the Queensland Building Services Authority**

Thank you for the opportunity to make a submission to the Inquiry into the operation and performance of the Building Services Authority (BSA).

I have two items in which I would like to submit on:

1. My personal application for a builder licence
2. Level of experience and currency of experience of people assessing building licence applications

**My personal application for a builder licence**

I have been dealing with the BSA since 2008 in relation to obtaining a building licence and have found it to be the most painful and costly experience of my life.

First contact was made with the BSA on 28th October 2008 via telephone conversation with BSA representative [REDACTED], after calling main BSA number; this call was to discuss licencing requirements to act in the capacity of employment at the time.

Between 28th October 2008 and 13th November 2008 a range of correspondence (email and phone calls) occurred between a number of BSA representatives and myself about licencing and qualification requirements.

On 13th November 2008 an email was received from [REDACTED] (a BSA representative) which stated:

"... I have discussed this with my manager [REDACTED] ...You would need to hold a formal qualification as a Chartered Surveyor to meet the legislative requirement for Building Open..." see attachment and a certified copy is available if required.

After this confirmation from BSA an application to become a Chartered Surveyor with Royal Institute of Chartered Surveyors was lodged.

Between 5 December 2008 and 11 June 2010 all requirements to become a qualified Chartered Surveyor with Royal Institution of Chartered Surveyor (RICS) was completed.

In August 2010 an application for Medium Rise builders licence and Open Supervisors application lodged with BSA.

The licence application was rejected based on the BSA's opinion that the technical qualification requirements were not met as the BSA would not accept the Chartered Surveyor qualification.

After being advised of the decision I reminded the BSA of the 2008 email. On 27 September 2010 [REDACTED] Manager Regulatory Services Queensland Building Services Authority sent an email in response that stated:

"...I can advise that the email from [REDACTED] in 2008 remains correct in that "You would need to hold a formal qualification as a Chartered Surveyor to meet the legislative technical requirement for Builder Open..."

Between September 2010 and 29 March 2011 considerable correspondence (email and phone calls) occurred between a number of BSA representatives and myself to establish that I did actually have Chartered Surveyor qualification.

Some statements made by [REDACTED] (Manager Regulatory Services Queensland Building Services Authority) during these discussions were:

18/10/2010 "... Your RICS membership status as a chartered surveyor is not a qualification and is therefore not acceptable to BSA as meeting the technical qualification requirement for a Builder Open licence..."

19/10/2010 "... I am stating that "the RICS qualified chartered surveyor is not a qualification" ..."

These statements were refuted in an email from [REDACTED] RICS Senior Education Manager to [REDACTED] from 28 September 2010 by stating:

"...The BSA is under the misunderstanding that a Member of the Royal Institution of Chartered Surveyors (MRICS) is not a Chartered Surveyor. They are in fact one and the same thing.

The Royal Institution of Chartered Surveyors (RICS) is not like some trade associations or membership organisations (for example the NRMA) where you pay a fee to join. RICS is first and foremost a professional qualification. It is the same as qualifying as a Chartered Engineer or Chartered Accountant. Once someone has gained the qualification 'Chartered Surveyor' – through a process of academic study and assessed experience competence – they become a 'Member of the RICS.' This is just the same as someone qualifying as a Chartered Engineer and as a result becoming a Member of Engineers Australia.

You cannot be a Member of RICS (MRICS) without first qualifying as a Chartered Surveyor.

Adam qualified a Chartered Surveyor in June 2010 after gaining an RICS accredited degree in property and then proving his experience and competence in the Project Management Pathway of RICS..."

After considerable information was provided to the BSA they would not accept that I held "a formal qualification as a Chartered Surveyor" and BSA refused to follow the advice provided in the 13th November 2008 email.

The BSA refused both licences in its decision dated 29 March 2011 on the grounds that I did not meet the technical qualification. With this refusal the only option was to take the application to Queensland Civil and Administrative Tribunal (QCAT).

A QCAT application was lodged and all the details can be found under Application No: [REDACTED] Decision information attached.

In the QCAT case my position in relation to my qualifications were confirmed in item 6 of the QCAT decision that stated:

"... [6] It is not disputed that:

- a) RICS is the only body from which Mr Webb could obtain the qualification as a Chartered Surveyor.
- b) He obtained this qualification on 11 June 2010.
- c) Mr Webb expended significant sums of money in obtaining this qualification.
- d) Neither the QBSA Act nor the Regulations define the term "formal" or "formal qualifications"..."

It was also established (in item 8 and 9 of the QCAT decision) that:

"... [8] The QBSA accepts that:

- a) The statement made in writing to Mr Webb in 2008 was misleading and ought not to have been made;
- b) Mr Webb has acted to his detriment in reliance upon it.

[9] The QBSA is unable to offer any explanatory evidence as the officer who made the misrepresentation is no longer employed by the QBSA and there is no contemporaneous file note to assist..."

While these items in the decision proved that I was correct unfortunately the BSA was able to hide behind the application of estoppel in the context of a statutory prohibition and the recognition that it is necessary to consider the nature of the statutory obligation and whether allowing an estoppel would nullify it.

QCAT found (in item 33 of the decision) that:

"... [33] I therefore find that the misrepresentation cannot operate to prevent the QBSA or the Tribunal standing in its place from exercising the statutory discretion to be satisfied that the relevant technical qualifications requirements have been met..."

QCAT also state (in item 34 of the decision) that:

"... [34] It is unfortunate that Mr Webb having acted prudently in making enquiries prior to undertaking a course of action has no satisfactory remedy in these review proceedings..."

To date my dealing with the BSA has cost me:

- Nearly 4 years of my life
- Tens of thousands of dollars (I made a claim of cost to QCAT for \$48,105.50 for my costs to date which was also rejected due to QCAT limited powers in awarding costs)
- Hundreds of hours of my personal time based on the advice in the 2008 email. This time could have been better spent with my family or on my employment had the advice not been provided
- Destroyed my reputation with the BSA which has and will make it difficult dealing with the BSA in the future
- Lost employment opportunities as they were not pursued as they would not have positively affect my application or assisted in the obtaining of qualification
- Many sleepless night especially in relation to the QCAT proceeding which is a very stressful process
- Detrimentially affected my marriage and home life due to the monetary costs and time the process has taken

My understanding to date is that nobody in the BSA has been held accountable for the action and advice of the BSA as they won the court case and I was not awarded any costs. As at 24 August 2012 [REDACTED] (who is referred to as providing the direction to [REDACTED] in 2008) still holds the position as Manager Regulatory Services within the BSA.

After all of this I have not received the licences in which I applied for and the 2008 email advised I would qualify for. Additionally I will require additions costs (in time and money) to obtain additional qualifications to bring me to the level in which the 2008 email said I would have achieved with my Chartered Surveyor qualifications.

#### **Level of experience and currency of experience of people assessing building licence applications**

From my experience dealing with a number of assessment officers within the BSA none of them seem to have any current or relevant experience in the building or construction industry. They seem to be administration people who are ticking boxes rather than people who understand the building industry. These are the people who are assessing if people have sufficient experience in an industry that they don't understand or experience in the industry

Even [REDACTED] who is Manager Regulatory Services who has the final say in the approvals of builder's licences does not have current experience. While [REDACTED] has a considerable number of licences and qualification in a range of area it is his level of currency on site experience that is of concern. A BSA search of [REDACTED] building licences shows that the last time he used his building licence to construct anything was in 1995-1996 financial year and only completed 2 projects totalling \$155,000

worth of work under his licence. This means [REDACTED] has been out of the hands on construction industry for 16 years but is currently in a position where he makes the final decision if someone (like myself) has enough experience to hold a building licence. In my case he rejected my experience because my job title is project manager and not site supervisor. The role of a project manager in 2012 is considerably different to that of a project manager in 1996 especially in a small building company like I work in. Project Management positions like mine didn't exist in 1996 when [REDACTED] last constructed something under his licence. The biggest irony of [REDACTED] lack of current on site experience is that he has rejected my licence application as he believes I do not have enough on site supervision experience yet [REDACTED] still holds his builder licence without using it or having full time on site supervisory experience for 16 years.

I would like to thank you for the opportunity to lodge a submission about the BSA. As this a complex situation I am more than happy to further discuss submission if that is required.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Adam Webb', with a stylized flourish at the end.

Adam Webb