

SUBMISSION 2012

Approved plans for major renovation January 2002.

Agreed Contract price \$110,000 [REDACTED] BSA licence no. [REDACTED]

Master Builders Contract signed May 2002 No exclusions, no second hand items, no special conditions.

Building renovation commenced June 2002. The builder decided to build in three sections, as opposed to the approved schedule. This was the first breach of the legislation, without consultation built one end to completion, started the other end, then the second story.

The second breach was he asked for a greater deposit than required.

Difficulties of the building process:

Many details were incorrect, pipes and posts incorrectly positioned, insufficient depth of footings, inadequate termite proofing. Second hand chamferboard were used, new ones were not primed, and every board had the nails incorrectly positioned so they all bowed. Internal beams were used outside, posts supporting three metre balconies were not checked in (the posts were resting on top of each other held together with one triple grip), a post supporting a bathroom was resting on a garden bed. Another post supporting a corner of the house was dyna bolted into rock which was resting on top of the ground. [REDACTED] repeatedly asked for more money, because of building out of sequence it was difficult to assess where he was up to, the house was largely unfinished and without further funds he repeatedly advised he would not be able to progress the project.

[REDACTED] went to Regional Manager [REDACTED], with whom he was a friend, [REDACTED] advised to ask for an additional \$17,000 above the contract price, this was the third breach.

We advised no more money would be forthcoming, [REDACTED] stopped attending the site. Five months after the supposed completion date, BSA advised ([REDACTED] Maroochydore office) for us to terminate the contract and BSA would come in and sort it out he stated "insurance would pay and another builder would be selected from three quotes".

2.2.2003 the builder was notified of the termination of the contract.

BSA Involvement Defects

[REDACTED] Inspector, [REDACTED] Disputes Manager attended with the builder 18th February 2003. [REDACTED] stated builder was not capable of completing, the defects were too bad. His recommendation was to have the building completed under the Home warranty insurance and the defective work could be fixed at the same time. [REDACTED] stated whatever was in the plans was "in" as far as he was concerned according to the documentation.

█████ returned in our absence (with our prior approval) and noted several serious category one defects, of which we were not made aware.

On the 20th February 2003 █████ had second meeting with █████ the manager BSA. He advised what he considered was out of the contract, despite any documentary evidence to support this. This became "█████ memo" which was the builder's version of what the contract contained. In March 2003 █████ did an insurance schedule stating to complete the house according to the approved plans. April 2003 the legal department BSA determined the contract was legally terminated. In May 2003 in a telephone conversation with █████ insurance advisor Maroochydore he stated the house would be completed under the insurance and BSA would pay up \$5000 for alternative accommodation during the completion of the house. On the file (obtained through FOI) there was an insurance no. and Stonehouse wrote he had all the required documentation for the claim. It was progressing through the insurance for completion. May 2003 we were asked to nominate a builder as part of the insurance process. Between June the 1st and June 6th 2003, █████ changed his view. He refused to approve or decline the insurance. For reasons that have never been explained we went from insurance approval to not being able to achieve any answers whatsoever. This is contrary to all insurance legislation, and is a breach of the BSA Act. (In a later taped telephone conversation with █████, I asked why █████ would have taken this course of action. He stated that we did not get the result we were entitled to in this matter, and could not give a reason as to why this occurred. When asked did he think █████ took a bribe, he replied he was not aware of any staff having taken money in these types of circumstances, however it was possible). On the 25th June 2003 █████ was ordered to fix defects (DTR). After an additional 7 weeks beyond what was allowable, he was issued with a Failure to Rectify. After FTR insurance is automatic, however in my case BSA was determined to keep the insurance out of the equation. If a decision was made re insurance, BSA could have been called as a witness at the Tribunal. As it was without approval or refusal, BSA could not be called as a witness and give evidence re the standard of work and how the builder had conducted the paperwork, renovation and what would have accumulated to 1,148 penalty points.

BSA advised the insurance would not pay for the remaining defects or DTR, a builder, █████, called me and said he would fix the remaining defects listed on the DTR. I rang BSA who said he was touting for work. █████ said the insurance is automatic and to ignore him. █████ said the insurance would not pay so the only way to get any progress on the defects was to let this other builder (a friend of █████ to fix them. █████ fixed the remaining defects on the DTR. We had paid \$15,000 to have many items fixed already so felt this was our only choice to get something done. On the file this builder's name █████ just appeared. In a clandestine meeting with █████, █████ and the builder, this plan was concocted to avoid the insurance being used. Had the insurance been used, this would have opened the door to have BSA as a witness re using the insurance for incomplete work.

BSA Involvement regarding Incomplete Work.

Insurance officer Brisbane office (superior) advised repeatedly to call quotes, quantify the owner's loss, using "memo" get builders to complete the house under the insurance. refused. 22nd September 2003 spoke to N who said he was sick of what Maroochydhore was doing, he said he was retuning the file to them and they HAD to progress through insurance, they MUST make a decision so the builder or we could have the decision reviewed in Tribunal and the Tribunal would want to know BSA's position. refused, stating that whilst the builder had not done the right thing, he did not have to make a decision, BSA did not have to appear and later it was stated had it gone to the tribunal (with BSA as a witness) the builder would have been "hammered".

wrote to our solicitor asking for documents not necessary for the claim, and knowing the builder had not completed them. October 2003 my solicitor wrote to requesting he show where we did not meet the criteria for the insurance, and if he would not approve, then decline it so BSA could be called as a witness against the builder. rang the solicitor and said he deliberately asked for documents he knew the builder did not complete so he would not have to make a decision. According to the file, he recorded he had all the documentation required for the insurance in May 2003 and all that is required for a claim is approved plans and a signed contract. The builder is the expert and penalties apply for lack of care with documentation. The builder was not asked once to produce any documentation. The solicitor, during this conversation, requested anything in writing to use at the Tribunal, i.e. the standard of work, the DTR, the FTR, ignored this request.

BSA was notified of more defects; they (and) ignored this. who met with the builder several times refused to meet with us. At this time and he became increasingly involved, also requesting documentation the builder should have completed knowing it did not exist. November 2003 BSA closed the file and refused to act on our behalf.

We were advised by another tradesman we would not get anywhere with BSA because the builder and were friends, their wives owned horses together and horse was agisted at the builder's property.

From September to November, Maroochydhore BSA tried to push us to the Tribunal without them as a respondent. The BSA Act states that once BSA has made a decision on the file (as in a DTR or FTR) they must follow through with all action on the matter and those decisions are then reviewed by the Tribunal by either dissatisfied party. Our case is the only case whereby a home owner cannot get any decision whatsoever regarding the Insurance.

December forced to proceed to the tribunal, without being able to call BSA as a witness.

June 2004 forced to mediate with the builder as we had run out of money, were living in substandard conditions (see photos of living conditions at time of mediation). In the agreement all future category ones remained the builder's responsibility for 6 years and were not part of the mediation. The private certifier had been exonerated by BSA stating the fact that he had approved defective work was not unsatisfactory conduct. His matter was not mediated. It took 2 years but the matter was heard at the Tribunal before [REDACTED]. We won, it was obvious at the time [REDACTED] could see something was clearly wrong at the time, stating I was the only credible witness in the proceedings. June 2004. First meeting with [REDACTED] who stated if what we said was true, it was all wrong and he would investigate.

Twelve months after FTR [REDACTED] confirmed no SPER fine, or prosecution, "I will investigate" he said. Eventually this was remedied.

A week later, after meeting with [REDACTED], [REDACTED] and [REDACTED] attended the house. [REDACTED] a builder said the standard of work was akin to farmer's that did their own work which he had seen early on in his career and described the builder as a "bloody, lazy bastard". Their concern was the conflict of interest and that they should have been notified, and the case handled by the Brisbane office. We were advised we would be given a copy of the investigation as we could obtain it through FOI anyway. An investigation took place; [REDACTED] of [REDACTED] was the investigation. Everyone was interviewed and later signed and dated their interview statement. September 2004 the report was completed, Jennings refused to give us a copy, stating that there were "no findings".

For 5 months Jennings refused to provide recorded documents. February 2005 went to High Commissioner for FOI and [REDACTED] was ordered to give us the report, the file, and interview statements. Upon receiving the interview statements, the report and the file, it was abundantly clear why [REDACTED] had not wanted us to have this information. None of it matched, and there were numerous anomalies, lies, and underhanded behaviour throughout all the documents.

REPORT

The brief for the report was:

- 1) [REDACTED] had a pre-existing relationship which manifested a bias (to the builder).
- 2) [REDACTED] failed to have defects properly rectified and failed to advise of significant category one defects.
- 3) [REDACTED] refused or delayed making a decision to cause detriment so that no insurance claim could be approved pursuant to the BSA Act.

[REDACTED] it was reported we refused to have the builder attend to the defects; therefore [REDACTED] was brought in (contrary to interview statement and the facts). It was also stated builders could not

quote on the house, therefore the insurance could not be used, and [REDACTED] in Brisbane had agreed (contrary to file and telephone attendance).

[REDACTED] interview statement who was involved initially stated "BSA should have made a decision re the insurance". He stated whatever was in the plans was "in" to be completed under the insurance. The report writer wrote this as "BSA could not rule one way or another because of the lack of documentary evidence" "The [REDACTED] should have followed the very sound advice and gone to the tribunal". (Contrary to interview statement, these remarks were not said). [REDACTED]s misrepresented, miss quoted [REDACTED] testimony.

[REDACTED] interview statement stated "the thing in [REDACTED] favour was the poor documentation, the builder has a responsibility to ensure the paperwork is all in order and complete. The fault lies squarely with the [REDACTED], BSA should have ruled in favour of the owner, not gone back to the owner for the documents, should have put it to the builder to provide documents". He continued "The work was very, very, very poor, rough as bags. If any suggestion of collusion between a builder and a staff member they should have come to me for guidance. Should not have continued to ask owners for the information, we should have immediately put it to the builder, you provide this information or we will take this course of action. We should have been more supportive, and we should have dealt more with the builder not the owners. Got to accept as a matter of principle that the builder is the contract expert not the owner. Lastly a critical element as soon as there is any suggestion of collusion, unethical behaviour or suspected conflict of interests, the relevant Executive Manager should be advised".

[REDACTED] wrote this up in the reports as: "it was complicated by the [REDACTED] terminating the contract, the hostility of the parties" [REDACTED] did not state this). It continued "They had not sought to follow the very sound advice of going to the tribunal and getting the contractual issues resolved [REDACTED]r [REDACTED] stated he still is not able to fathom why they didn't pursue this path, but persisted with wanting the BSA to make a decision without them providing the necessary information to enable an informed decision to be made." [REDACTED] did not state any of this. In fact his interview statement purports the complete opposite, however that is not included in the report.

[REDACTED] also included in the report "[REDACTED] would not try to influence decisions in order to favour a supposed friend. And his honesty and integrity were never in question". [REDACTED] did not state this. What [REDACTED] wrote was a fabrication. He included statements that were not made, and omitted statements said by [REDACTED].

[REDACTED] told the same lie in the interview statement that we refused to have [REDACTED] on site for the DTR so [REDACTED] was nominated. (Contrary to file). Tellingly [REDACTED] admitted the contractual information was in our favour, and the builder would have been "hammered" in the tribunal for the standard of work and not having proper contracts in place. Which is why [REDACTED] protected the builder by ensuring we could not call BSA as a witness, and the very reason why the insurance should have been approved in our favour.

In the report [REDACTED] embellished this testimony by saying it was [REDACTED] who advised [REDACTED]r had to be brought in to complete the FTR. This was not true and is clearly not in the file, or in the interview statement.

██████████ statement was unremarkable and unlike ██████████ and ██████████ testimony, was quite accurately reflected in the report. One point of interest was ██████████ enquired from time to time as to whether the SPER fine had been issued as someone "at a more higher level" had made the decision to not issue it.

██████████ stated ██████████ gets involved in all the files. The report writer wrote up his evidence as the reason the file was closed was it was a tribunal matter (meaning we had commenced proceedings in the Tribunal). This was incorrect as the file was closed in November 2003, we did not proceed to the tribunal until the beginning of 2004.

██████████ testimony unremarkably reflected the same lies as ██████████ that in itself indicating collusion. He stated he met with ██████████ and ██████████ about fixing the defects before someone else was given the work and during this discussion ██████████ was suggested he didn't "want to return to the house because the ██████████ had treated him appallingly." This is not only a misrepresentation of the facts, is contrary to the file evidence, (no mention of DTR or FTR) it is also the same explanation given by ██████████. For the builder and the Regional Manager to state the same lie as fact would surely indicate prior discussion and a planned strategy.

██████████ division Brisbane, in contrast to the file, his evidence was heavily influenced by someone. He made statements much as that he could not go on the verbal advice of the builder and homeowner, which at no time was the request. In the file he insisted BSA must make a decision, quantify owner's loss, and get quotes from builders. Unfortunately he lied throughout the investigative process which was subsequently written into the report.

Those under investigation, ██████████, ██████████, stated that BSA could not get builder's to quote therefore could not make a decision. This is absurd as builders quote on plans all the time, and we were not going to live in an unfinished house indefinitely. ██████████ and ██████████ who were supportive of us and their statements were not included in the report and altered to fit the purpose of ██████████ report to ensure that there were "no findings".

██████████ held the report for three months, a couple of days before Christmas sent it to the CMC with no findings. I was advised by the CMC that when there are "no findings" it is not examined and merely filed. CMC have since denied this and claim they too have fully investigated, and would not consider any further evidence. When asked why ██████████ kept it for three months then sent it at such an odd time, he advised he had been reading it. Not very closely it would appear.

Two years later, the house started to cave in the centre. ██████████ had not underpinned the second story in accordance with the engineer's plans. He had placed a second story on top without any support. After establishing this was not a mediated defect and was a category one therefore pursuable, ██████████ (BSA Brisbane) attended the site. He refused to state it was a category one, in another act designed to protect the builder, as if it was determined it was category one ██████████ would have had to fix and make good.

We proceeded to the tribunal for the second time and were to be before Loriche again. Someone decided that was not going to happen, and the dates and tribunal member were altered, so we were before [REDACTED]. The moment we sat down, we knew the cards were stacked against us. Within the first five minutes our two witnesses, the engineer and an independent certifier were dispensed with and their evidence was not heard. We argued that we had paid for all the footings we had the footings inspections, we had paid for the frame state, the frame state had been inspected by the certifier, we also described [REDACTED] penchant for inadequate footing i.e. in garden rocks, or garden beds. At the end of the day, I had not given evidence, and I too was dispensed with.

[REDACTED] decision was that it was incomplete work not defective work, costs were awarded against us because of the "complex" one day proceedings, and we had to pay the builder \$20,000.

On the 5th October 2010 I met with [REDACTED], nine BSA Board Members and [REDACTED] in Parliament house Brisbane. In a two hour meeting it was clear [REDACTED] and other members in attendance fully understood the claim of collusion, the falsified report, the denial of our rights, not achieving the result we were entitled to. They saw the evidence in hard copy. At the end of this meeting we were advised to not be concerned, they would investigate. Two days later I requested minutes of the meeting, [REDACTED] advised none had been taken, so I forwarded mine. Two years later, nothing has been done. Attached is the minutes of the meeting, and I also have a tape of the entire meeting in my possession.