

QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION AND OTHER LEGISLATION  
AMENDMENT BILL 2014.

WRITTEN SUBMISSION PREPARED BY MRS JILL VAN DORSSSEN:

**INTRODUCTION:**

I submitted to the initial review of the QBSA and welcomed the Governments initiative to establish an Authority to provide greater balance between the needs of consumers and licensees by providing more clarity around the management of disputes and establishing new processes to resolve them more efficiently.

At this time, we had not commenced our case with QBCC and QCAT.

We have had very different experiences with QBCC from being supportive and professional to the extreme of being manipulative, untruthful, deceitful and ignoring the obligations and objective of the various Acts and Policies.

We are continuing to be very disappointed and stressed by the current actions of the QBCC and have attached an extract of the documents lodged with QCAT this week relating to an outstanding Category 2 Defect item – Deck Staining, as an example of the unacceptable actions of QBCC since the recent changes introduced by the Government, that need to be addressed and resolved in the interests of achieving the goals and objectives as published.

**BACKGROUND:**

In March 2011, we, DB & J Van Dorssen (my husband and I) and CD & KJ Houlihan (my daughter and son-in-law) entered into a contract with [REDACTED] to build a dual occupancy building. Regrettably the relationship with the builder broke down very early in the building process and the builder become very difficult, non-communicative and aggressive causing us extreme anxiety.

In November 2011 the home reached practical completion. To effect handover, [REDACTED] General Manager QBCC arranged for a representative ([REDACTED]) from the QBSA attended and assisted. With the assistance of the professional and supportive actions of [REDACTED] at handover a number of defects were identified and recorded as required by the Contract. The builder attended to the rectification of some items in December 2011. All other outstanding items were referred to QBSA in June/July 2012. Some of these defective building items still remain outstanding.

QBCC carried out several inspections and prepared Inspection and Re-Inspection Reports and issued Directions to Rectify to the builder as detailed in the document lodged with QCAT on the 18 August 2014. The revised determinations have been extremely inconsistent and ignored the provisions of the various applicable Acts and Policies. To the extent, on the 12 June 2013, [REDACTED] General Manager QBSA, personally carried out a site inspection and on the 21 June 2013 wrote:- *'I have reviewed your file, however after meeting at your property I have come to a resolution that the items you have lodged in your original complaint [with QCAT] need to be reviewed in further detail in relation to decisions made by officers of the BSA.*

Following this review, ourselves and QBCC representatives attended a QCAT Compulsory Conference and agreed to the rectification of several items and conditional upon these been rectified, we the owners removed them from the Tribunal Matter. The parties agreed the Tribunal Matter be limited to 3 items the owners still considered to be defective building works. This action was confirmed at a QCAT Directions Hearing.

In March 2014, we attended the Tribunal Hearing in relation to the 3 items as agreed. A Tribunal decision is pending.

The QBCC has now determined that they are no longer going to honour their commitment to rectify this item.

QBCC verbally and in writing, instructed us to refer the matter to QCAT for determination.

QBCC have lodged an objection to QCAT against the matter being re-opened due to the fact this item was not included in the 3 items before the Tribunal Hearing.

QCAT confirmed it is unlikely to re-open the matter for the same reasons.

QCAT advised they are unable to consider any agreements made before the Tribunal Hearing therefore, the fact that this item was only removed conditional upon the QBCC undertaking the rectification is no longer relevant and we have been disadvantaged by acting in the good faith of accepting the QBCC's undertakings to rectify.

At a meeting with the QBCC representatives on 8 August 2014, the QBCC representative confirmed his reasons for withdrawing all other works were :-

- The QBCC representative considered the deck staining was the last outstanding item.
- We confirmed there were a couple of other outstanding items and suggested we check the list of agreed items.
- The QBCC representative took offence that we suggested checking the list of agreed defective items to rectified and determined then and there the QBCC would not proceed any further.

## **CONCLUSION:**

The QBCC:

1. Undertook several re-inspection and reviews and were inconsistent with determinations
2. Accepted representation from the Builder that were inaccurate, misrepresented facts and unsubstantiated.
3. Amended determinations based on the Builders representations without examining all the evidence
4. Did not attempt to substantiate the builders representations
5. Required the owners to go to extreme lengths to provide Industry evidence and QCAT decisions to justify the determination of defective building work.
6. Changed determinations in accordance with Owners evidence and representations.
7. Gave the Owners commitment to rectify defects, accepted the owners conditional removal of item from Tribunal Matter, but since denied rectification.
8. Relied on 'Without Prejudice' Correspondence in preference to documents subsequently lodge with QCAT.
9. Did not act in accordance with the QBCC Amended Statement of Reasons lodged with QCAT determination of Category 2 defect, that superseded correspondence at Item 8.
10. Did not adhere to the Australian Standards, Building Code, QBCC Act and Policies
11. Unfairly excused the builder of his responsibilities for defective building work contrary to the QBCC Act and the intent of the Parliament.

12. In some, but certainly not all circumstances, did not act in an honest and professional manner at all times.
13. Caused the owners extreme anxiety and stress.

It is our observation that the actions of some of the representatives of the newly created QBCC are not in accordance with Governments goals and objectives and do not provide a greater balance between the needs of consumers and licensees.

From this experience, I do not consider the proposal for the QBCC carrying out internal reviews of their decisions to be fair, reasonable nor effective. QBCC carrying out an internal review of their decisions would not ensure consumer confidence in the system.

Should such an action still be considered, the Consumer should be an equal party to this review and be offered an equal opportunity to present their evidence and circumstance for consideration. All defects reviewed by the QBCC have an effect on the owners and their rights to fair and reasonable justice need to be protected at all costs.

In our specific case as above, the QBCC representative could not justify how the QBCC associated the Owners acceptance of an option offered by the builder , on an unrelated matter could be interrupted to be the cause of this defective building work. Further the QBCC representative continual chose to ignore the builder`s responsibilities and absolutely, unjustifiably, subrogated the responsibility to the owners. The consumer needs to be protected against this system and be given fair and reasonable access to unbiased review process.

It is very concerning to experience `a system` that is intent on frustrating the consumer with the intent of exhausting their resources, financially and personally.

There appears to be some instances of a great need to affect change in a `culture` before there could be an effective change in the desired outcomes. There are existing provisions in the existing Act and Policies to guide and assist the QBCC in their role, regrettably, the `culture` does not apply these as intended. Amended Acts and Policies would also be ineffective without organisational cultural change.



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Mrs Jill Van Dorssen