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21 August 2014

To:
Research Director
Transport, Housing and Local Government Committee
Parliament House
BRISBANE QLD 4000

**Queensland Building and Construction Commission and Other Legislation
Amendment Bill 2014**

I have the following comments on this Bill.

Part 5 The statutory insurance scheme

Section 71B: Insurance scheme not to affect licensing decisions

I believe this section should also say that decisions about Directions to Rectify must not have regard to implications for the statutory insurance scheme. Possibly this is implied in the current wording, but my proposal would make this clear. The point is that some Decisions to Rectify (by finding builder fault) could strengthen a homeowner's claim under the insurance scheme.

As a general comment about the insurance scheme, the amendments do not seem to change the general nature of the scheme. They are more about details, eg adding consequential damage. The problems with the scheme are in the details of the insurance policy, whose wording is presumably completely at the discretion of QBCC.

I believe the amendments should give more guidance to QBCC about the spirit of the scheme (eg claims not to be denied on minor legalistic grounds). Also there should be a mechanism which does not involve the effort and expense of a QCAT appeal, whereby a homeowner can appeal against a QBCC decision to deny an insurance claim.

Division 2: Directions to rectify or remedy

As far as I can tell, there does not seem to be a requirement for the QBCC to list Directions to Rectify on the public record of the licensee/builder. So a builder can be guilty of numerous defects in building but, as long as he rectifies them when QBCC asks/directs, his deficiencies will not be known to the public.

A prudent person who plans to engage a builder to build a house (or do other work) should check the builder's public record on the QBCC web site. However it is well known that this public record is not necessarily informative about the builder's past deficiencies.

I believe these proposed amendments to the QBCC Act should include a clause (probably in section 72) requiring QBCC to publish Directions to Rectify in the builder's record on the QBCC website (after such Directions to Rectify have exhausted any appeal mechanisms the builder might invoke).

This would be a powerful incentive for builders to improve their performance in getting building work right on the first attempt. It would give potential homeowners a simple way to research builder abilities, and so the best builders would tend to get more work.

I am aware that it is unrealistic to expect a builder to build a house 100% defect-free every time. Under my proposal, the public would expect the public record of every builder who builds a significant number of houses to show some Directions to Rectify. The potential homeowner could then assess the number and nature of such Directions to help make an informed choice of builder. Clearly, some Directions would deal with fairly minor defects and some with defects so major that the builder should be avoided.

I would be happy to provide any further comment if useful.

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Yours sincerely

A handwritten signature in black ink that reads "Don Jender". The signature is written in a cursive, slightly stylized font.

Don Jender