

Productivity Commission---Public Hearings Hobart 2 April 2007 2.30pm

My comments will focus on the effects of the following statements recorded in the Productivity Commission Report 2004 (p 208)

"Insurance is the vital component of an holistic approach to building regulation where public risk has been transferred to private risk. Instead of governments underwriting the work of building practitioners as they may have tended to in the past (insurer of last resort) building control acts are now based on an expectation of competent and insured building practitioners" (Ref; Mr. G Hunt Tasmania.) .

"There is a distinct likelihood that the insurance issue will cause the number of practices to substantially decline to just a few large practices who are able to carry the insurance premiums". (South Australian Government)

1. The bureaucratic organ has failed to comprehend the complexities of the regulation of occupational licensing. There are many constitutional constraints and High Court rulings that must be complied with before any law can be passed by Parliament and if it passed without compliance, it becomes ultra vires.
2. The Housing Indemnity Act is one such Act. There have been massive problems with this insurance in all states including builders committing suicide.
3. 99% of all Home Owners Warranty polices issued do not meet the eligibility criteria for making a claim.
4. Insurance companies as private entities have the right to deploy any decisions to protect their operation but the Constitution and High Court [common law natural law and constitutional implied rights] does not allow such decisions to be implemented.
5. Failure of governments to comply with the International instruments *International Convention on the Elimination of All Forms of Racial Discrimination that calls up , inter alia, to the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, The International Covenant on Civil and Political Rights ("the ICCPR"),*

Article 5 states The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration

6. No fines or forfeitures without trial and conviction. Builders are required to forfeiture their freedom of choice of employment and how that choice is implemented without trial or conviction.

7. Highly Competent and skilled builders with few assets are denied the right to trade whilst a "financially flushed" incompetent person are allowed to continue to operate in the work place, endorsing that the government legislation is about money not competency.
8. Builders, who cannot obtain insurance are forced to work in the black market
9. Loss of the "boutique builders" who specialise in unusual designed buildings. Cost of using larger firms is financially prohibitive and do not have the personnel who are capable of lateral thinking to be able to construct these buildings efficiently.
10. Building operations are limited by the amount of insurance available
11. Black market operations, "home owner builders" are now constructing 40% of all new approvals.
12. Builder is required to sign over assets to insurance companies to obtain insurance.
13. Consumer has lost the protection of using competent and registered tradesmen
14. The name "Home Owners Warranty" (HOW) is a deception. The consumer believes, as the name identifies, is a policy against faulty workmanship. In reality, it is an insurance policy that carries the cost of finalising the unfinished construction or poor workmanship to a limited value if the builder dies, disappears or becomes insolvent.
15. Definition of a natural person entity and artificial entities and the rights of each entity.
16. Aging population and annual based licensing charges.
17. A massive financial liability on State government to provide an income when the licensing charges and insurance make it unviable to work.
18. Each stage of construction is being repeatedly covered by insurance eg. draftsman's PI. Insurance is invalidated by the Engineer's PI insurance adding unnecessary costs to the consumer.
19. Legal issues

Issued by

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