

Board finds two LBPs to be operating well below the required standard

Posted: 28 November 2017

Two licensed building practitioners (LBPs) have been held to account by the Building Practitioners Board (the Board) for a range of serious offences relating to their performance, conduct and behaviour.



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Christchurch-based LBP Stefan Mortimer recently had his licence cancelled and was ordered to pay costs of \$1500 for what the Board considered to be a cavalier attitude towards Building Code compliance. The Board also found that Mr Mortimer did not accept a legal obligation to obtain a building consent for several habitable structures he constructed on a vacant section he owned.

The buildings Mr Mortimer erected did not meet the Building Code in terms of structural integrity, amenity or sanitation. In their decision the Board referred to a High Court decision and stated, 'The Board considers the Court was envisaging that those who are in an integral position as regards to building work, such as a licensed building practitioner, have a duty to ensure a building consent is obtained (if required). It follows that failing to do so can fall below the standards of care expected of a licensed building practitioner.'

The Board further commented as to the seriousness of the offending, stating 'The LBP has been found to have committed three offences all of which are very serious. Moreover there was a continuing pattern of conduct and a flagrant disregard for the requirements of the Building Act and contempt for the Council and the Court's processes when they took action. These are aggravating factors. The Board also considers the dangerous and insanitary nature of the building work is an aggravating factor.'

The complaint was laid by Christchurch City Council following a longstanding pattern of poor conduct and behaviour by the LBP in question.

Auckland LBP Satish Chand had his licence cancelled and was ordered to pay costs of \$2000 for making a number of building-related errors disproportionate to what would be expected of an LBP holding the same licence class as Mr Chand. The Board found that the errors demonstrated a general lack of understanding and knowledge of the regulatory system, the Building Code and applicable technical standards.

In the complaint the building consent authority, Auckland Council, noted that the building work that was the subject of the complaint failed multiple building inspections, which were often about the same matters. The building consent allowed for 12 inspections to be undertaken over the course of the consent, however 28 inspections were booked during the LBP's involvement in the building work. Most of the failed inspections related to the weathertightness of the building's external envelope.

In relation to the compliance of the work undertaken by Mr Chand, the Board stated, 'The evidence provided to the Board showed clear instances of building work that had been carried out in a negligent manner and the failings were sufficiently serious enough to warrant a disciplinary outcome. The failure to deal with weathertightness in the correct manner was particularly concerning to the Board. Ensuring weathertightness in buildings was one of the reasons why the licensed building practitioner regime was brought into being.'

Learnings

The above cases show the Board will hold LBPs to account where they have failed to meet the expected standard. We can also take away that a reasonable level of care, attention to detail and respect for the rules are required when carrying out building work.

Key points to take from these decisions:

1. Consistently undertaking building work in a non-compliant manner is not a responsible, lawful or acceptable position to take.

2. Knowingly undertaking building work that requires a consent without obtaining that consent is viewed as a serious offence.
3. LBPs should not treat the building consent authority as their quality assurer, compliance verifier or overseer.
4. Regularly failing inspections is not a good look and you might have to explain why the work you undertook or supervised did not pass a building consent authority's inspection process.

Complaints to the Building Practitioners Board (<http://www.lbp.govt.nz/lbp/complaints/complaints-to-the-building-practitioners-board>) on the LBP website has a guide to making a complaint about a licensed building practitioner, as well as the complaints process the Board follows when it receives a complaint.