

# What My Builder Didn't Tell Me



**Howard Ryan**  
Industry Expert

**VOLUME 1**

**WHAT MY  
BUILDER DIDN'T  
TELL ME**

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# SYNOPSIS

This is an explanatory book to allow its reader to understand the importance of what is required when building or buying a property and to help avoid costly litigation.

It has also been written as a direction for builders, building inspectors, real estate agents and clients when dealing with each other and to help avoid misunderstandings and disputes.

## **For Building Inspectors**

Building inspectors, on an independent basis, will gain a huge advantage over their assumed competition, once having read this book if they practice what is explained in the relevant chapters.

## **For Builders**

This book is a direction as to what a builder should follow, and what a home and property inspector is required to fulfil, when dealing with their clients. After all, satisfaction by our clients is what we all strive for, or so we thought! The main focus of this book is on how to follow specific procedures using Contract Law and how simple the Five Elements of Contract Law are to follow.

Corporate greed and the slashing of sub-contracting tradies costs has caused a major issue in residential construction with the finishing trades and the proposed warranty expectations, which is leading them all to tribunal and court claims more so than ever before.

As a builder, by not understanding and or acknowledging the wording in your contracts and scopes of works, can create unrealistic expectations and disputes where both parties make fools of themselves.

Construction and Inspection planning is crucial to a successful and dispute free business.

An example is, we don't tell a car manufacturer how to build their cars, they just sell them in their car yards so why should a consumer tell a builder or a home inspector, how to run their businesses?

### **For Clients**

Forums and reality TV programmes are full of inconclusive statements based on what is being displayed, and the viewers are assuming this is the way it is to be done. Believe me it is not!

This book will help you gain a complete understanding on the difficulties a builder faces such as dealing with their client's unrealistic expectations.

It will also help you, the client, on overcoming anxiety because of time restraints when contracting a builder to construct your new home.

### **For Real Estate Agents**

Your job is to sell a house, but is it at the risk of your reputation? I explain the importance of letting an inspector do their job to avoid the buyer risking financial ruin because of defaults.

# INTRODUCTION

This book is written for;

- The Builder and the Client (part one)
- The Building Inspector and Home Buyer (part two)
- The Real Estate Agent (part three)

The reason for this book is to prevent litigation which can result from

- Lack of communication
- Incomplete contracts
- Failing to take contemptuous notes

This book is written in four parts as outlined above, however it's also a way of demonstrating to the relevant parties 'the other side' of the story.

## HOW TO READ THIS BOOK

Some sections are relevant to more than one party so each chapter highlights who should read it. To gain a thorough knowledge of contract law in the building/real estate industries reading the entire manuscript would be extremely beneficial.

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For a builder or a home inspector to first understand and deliver elements of Contract Law, they must have first experienced wrongness, felt its wrath, and then become amazed and bewildered after their delivery.

As a building inspector, I found after delivering the above sequences to both my clients and to myself, I stumbled on a different level of responses from my clients; they were happy and confident. Something I hardly ever saw as a builder.

As an Australian builder, it was a tough gig in the 70's to the 90's trying to satisfy the expectations and needs of clients, Council bodies, Council planners, architects and draftsmen, client's lawyers and soon after, the dreaded Court and Tribunal systems. At times it was relentless and overwhelming.

I thought having some money in the bank, receiving progress payments and having availability to an overdraft at my bank was enough to be successful, **it was not!**

In 1992 I progressed from Builder to Building Inspector and then to founding The Housesafe Training Academy, Australian Affiliation of Property Inspectors and Pre-Purchase Registry of Inspectors.

Housesafe Training Academy has trained over 6,500 people so far nationally and internationally, from individual inspectors to large Australian project builders like Metricon Homes, Zac Homes, Wisdom Homes, Mojo Homes, Masterton Homes, Icon Homes, Edgewater Homes and McDonald Jones Homes.

In fact, New Construction Intelligence sessions for construction companies and their site supervisors are now a large part of the business and intellectual property.

Throughout this book I will use some of the “Training Methodologies” that I use within the Housesafe Training Academy as a way to express my feelings at certain times in my self-employed life and to show the trainees how they, too, can learn from my errors by improving on their skillsets and mindset. After all, learning by our mistakes gives us the skills for improvement and demonstrating the right way to do things to others.

The statements throughout this book are my lines of attack and what I use as a way of calming most situations I find myself in.

*“Think before you speak, and never write what you think,  
until it is spoken”*

*“To speak before you think is a fear of being embarrassed and  
after the fact you won’t realise this, until you have spoken”*

On previous occasions in continuing my own specific education, it came from reading the book, “What they don’t teach at Yale Law School”. I read and found out that some lawyers, don’t have very high ethics in their adversarial roles.

I’m sure some of you have experienced this in some way.

It is difficult to explain, however with lawyers you get what you pay for and the same applies to builders and home inspectors.

## **Ethics**

I am from a family of five. My dad was a wonderful and quiet man, a shearer, a Manly Beach Life Saver and a teacher of wool classing at Sydney TAFE College, NSW.

After he survived the 2<sup>nd</sup> World War as a Lieutenant in the Royal Australian Air Force Catalina Air Sea Rescue, he provided me with life lessons to bring this specific information to you, the reader, of this book.

My mum was so gentle and never yelled, only if we didn’t want to eat our vegetables as it turns out that was a good thing!

We all hear about life and its tribulations some way or another, but do we learn from what they are telling us? Not always!

I believe it's very important to be humble and kind, educated, prudent and to listen to others.

My purpose in my designated and chosen trade as a Carpenter and Joiner, Builder and Trade Educator is "To be the creator of accountability for the protection of the Australian homeowner".

My work is in keeping with this particular purpose.

## **Words of Wisdom**

*"A promise is a promise and it is not something to play around with, so remember when you make a promise and keep to it, your world will soon change around you", mine did.*

*"Your destiny is good to think about and experience, but sometimes, it's a bloody long way off"*

*"The only future worth building, involves everyone"*

*"We as tradies and builders are also homeowners, just like you with mortgages, car payments and day to day family expenses", don't forget that.*

*"To remain passive on a subject means you either don't know, or just don't care"*

This book expresses to you the reader just what builders do and wonder why we do it.

Over the years, I have learnt that you don't understand anything unless you can explain it to someone else first

## **Words of Wisdom for Tradies and Builders**

Many times, I thought it would be best to work for a boss and not yourself, I was wrong.

This process of thinking this way, took me over 30 years to understand and to get through.

*“Business opportunities are like trains, there is always another one coming”*

*“Global Education does not always mean Internationally, read the codes and standards and see what happens to your mind”*

Building businesses fail every day in some way shape or form by not understanding the documentation they provide and not obtaining their clients acknowledgments of their own service delivery.

A huge mistake, and later in this book you will understand why.

Many start new building businesses or just go into carpentry, bricklaying, tiling or painting and the like. Some survive and some sink very quickly.

At times you wonder how much more debt, can your business take and absorb?

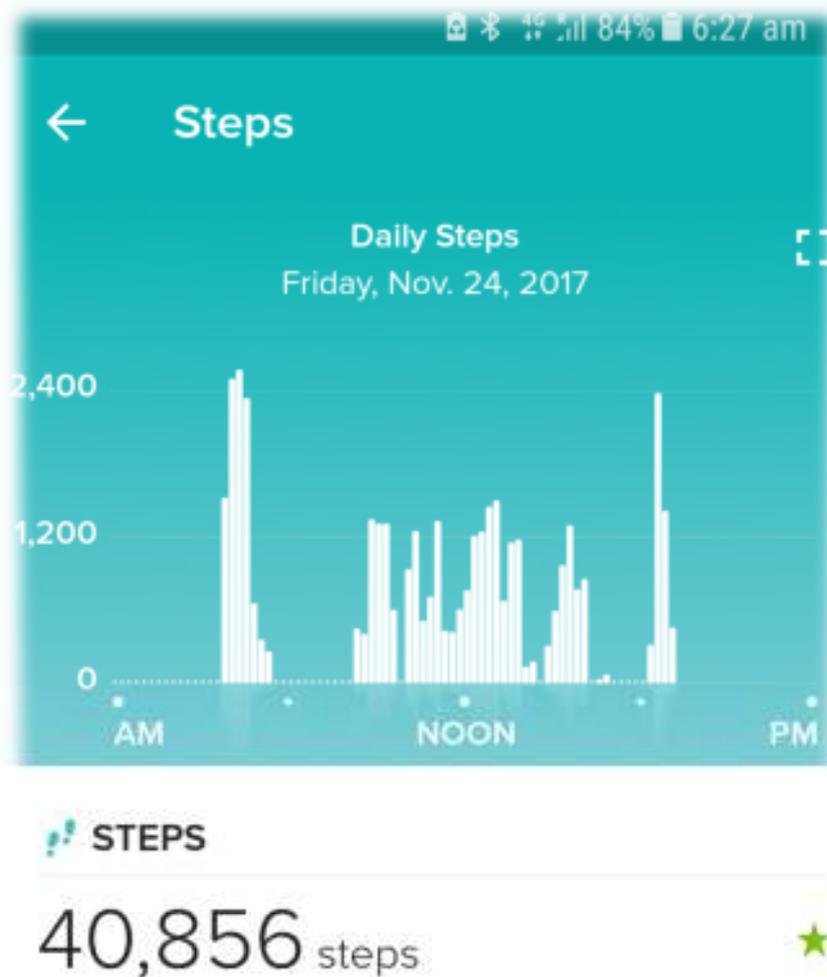
- It can be soul destroying
- It can be family destroying
- It can even break your heart

Going through financial disasters soon makes you learn where it all went wrong, so never believe being self-employed is easy, because it is not!

## **The Purpose of This Book**

This book is giving my legacy back to the industries I love and advising future home buyers and construction workers how to mitigate their own risks in building and or obtaining a home and property inspector.

At times, I really go the distance, refer below:

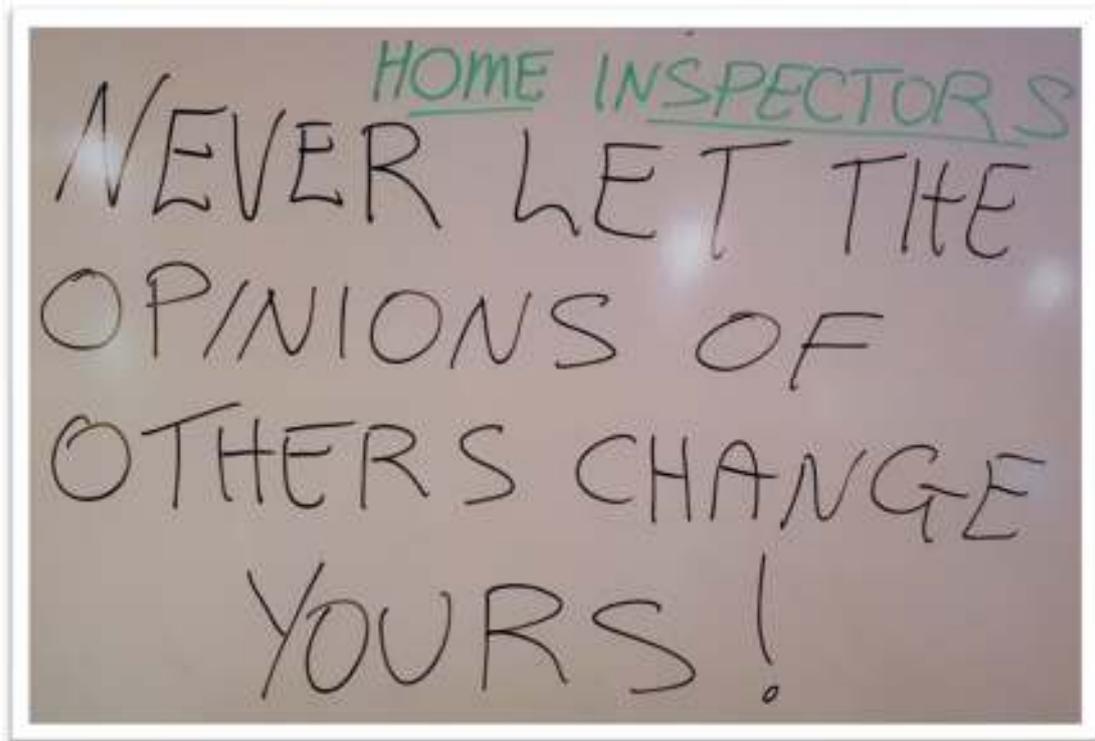


*Walking around New York city – November 24<sup>th</sup>, 2017*

Over the past few years, I have sent various types of retainers to many builders, large and small, with an intent to improve and support them in mitigating their risks, improving their end results and showing why they should not be able to run with residential construction without a competent mindset. Yet, only to be ignored and fobbed off.

If only they knew what is truly happening out there to them, behind the scenes and within the industry.

This book is a path to this cause.



Training Methodology

Most recently in Sydney Australia, home unit and apartment builders are now suffering the wrath of failing at inspections, not failing inspections.

Some complexes are moving as shown at these sites by excessive cracking to the structural concrete elements.

Many of the projects Engineers and Private Certifiers are now blaming each other.

Now the Australian Building Codes Board are requesting comments on independent inspections required on all these complexes.

This will be interesting, given the type and number of uneducated inspectors which are currently embedded within the market.

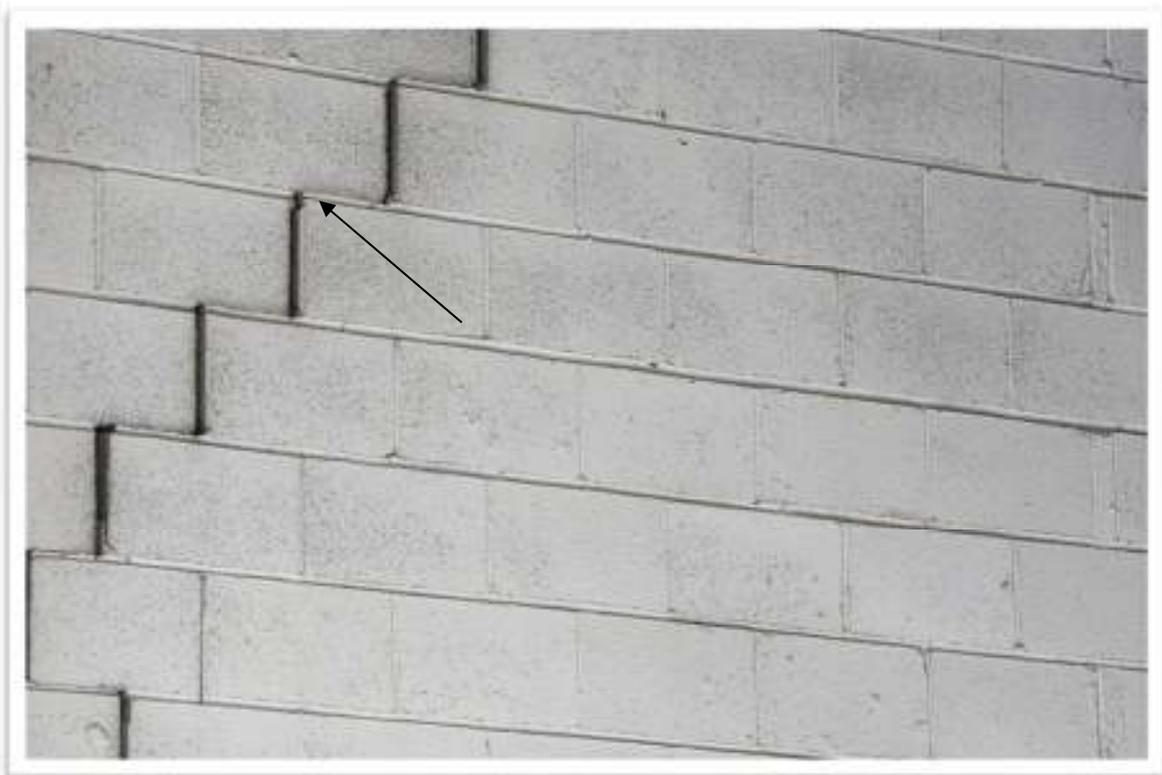
An exact example of what happens in construction is due to where the builder is not proactive with their education processes, their continuing professional development and defect mitigation.

I know continual education can sometimes be a mission, but the end results will be clearer upon successful completion of that education, just one day at a time a few times a year is all it takes.

Builders need continuing education (CPD's Points, Continuing Professional Development), due to constant building codes (NCC National Construction Code), revisions and all the job relevant Australian Standards are changing annually, which is an impossible task for one to keep up with.

CPD's are ignored at time by builder and contractors which is another reason why project disputes based on defects develop.

Whilst on one of my international training experiences in San Francisco, LA and Houston Texas, I also learnt of residential complexes "shifting downwards".



Separating concrete blocks in apartment buildings

This wall tile is just one example of what is happening to new units.



This \$1mill, two-bedroom unit has cracked and crushing wall tiles and the Agent stated, "That's OK the builder will fix it." The purchaser walked away demanding their deposit back.

This term, “shifting downwards” was loosely used recently by an Australian Engineer based on their own findings on one of the moving new apartment buildings in Australia.

I can only assume the statement, shifting downwards, was used to ward off the media.

How sure or convinced are you that your own home is not moving?

When you see cracking in your home, there are always reasons why, and these reasons are proven in various Australian Standards, good luck in finding them.

I have been involved in expert matters where many homes are shifting forward; the shower screens won't close; the kitchen's overhead wall cupboards falling off walls after being screw fixed; and the front walls of every home were in excess of 50mm (2") out of plumb.

The proven cause was that these properties were now built on an old dam which contained in excess of 6.0 metres (20 feet) of uncontrolled fill. Any wonder they were shifting?

Why wasn't this picked up by the relevant Engineers involved in their construction?

Have you bought a home off an Owner Builder? If so, or if you are about to, then you need to read and learn from this book.

There is so much to research, so much to remember and so much to bring to the world of residential construction, home and property inspections.

This is my own version of just that.....

Howard J Ryan

# **PART ONE - THE BUILDER & THE CLIENT**

# WAR STORIES (WARTS AND ALL AND NOBODY WINS)

*'Stories from what we imagine, what we dream  
come from what we experience'*

These are my personal building war stories.



Freemantle, Western Australia, 2017

As a kid, I constantly had a dream that I was flying like superman!

That dream came true because now I am flying around the world, speaking about what I love, and what I have learnt in my past as an educator and saving others to avoid making the mistakes that I did.

Who'd of thought? 😊

**What my builder, told me (client wishes)**

Bloody nothing!

This is, “why my builder let me down.....”

## **Merrylands, NSW 1982**

We were requested to provide a quotation for a large single-storey addition to the rear of a property in Merrylands NSW.

A Greek family was referred to us from a past client. Referrals are the best sort of marketing; however, they don't always go the way you expect. A referral is an act where someone is pointed in your direction.

The referral came about because the Greek family that were about to become our client, had gone out to a party where one of my previous client's was also attending. At the party, the previous client overheard the husband talking about finding a good prudent builder for their pending additions.

Prudent means to be cautious, careful as well as judicial.

My previous clients intervened and provided the Greek family with my contact details, so they got in touch with me.

The biggest problem being a builder is being requested to provide quotations which are mainly done after hours and on weekends.

A builder never really rests, especially a self-employed one.

It is obvious to me that client's expectations are mostly unreasonable when it comes to their own homes, however I get it, I really do.

Remember I stated before, about satisfying others doesn't always work unless they are very understanding about your circumstances around your job processes?

At this time in my building career I was still on the tools, I did all the quotes and contracts, and drew up the drawings. I arranged to attend this property on a Sunday morning after the family had arrived home from church.

I turned up to the site at the time agreed upon, only to find no one was home, hmm! ☹️ I didn't have a mobile phone at this time, so went driving to find a public phone box which I found about five minutes' drive from the property.

The phone had been vandalised and the glass was all smashed around the phone box, not an unusual occurrence in those days.

I returned to the site and left a handwritten note and my business card attached to the front door flyscreen frame.

The client called me that afternoon to say he was at church and I should have known that being a Sunday! Wait a minute, this guy arranged this date and time with me!

This is the first example of my experiences as a builder where we must be mind readers!

Consequently, I made another date and time for the upcoming Monday afternoon at 5pm which is my busiest time each day. This is the time I must make all my phone calls to clients and sub-contractors involved for the following days.

Remember I didn't have a mobile phone or a computer in 1982.

I attended the site for the second time and spent four hours with this client deciphering exactly what they wanted and provided a handwritten quote and a hand drawn sketch plan to scale on the spot.

Not many builders do this on the spot! Especially these days.

This was my unique way of providing an instant service to my pending customers. They seemed to like it. You could call it my USP – Unique Selling Proposition.

However, this at times can be very time consuming and when done on a weekend it took me away from my young wife and family.

I believed this was my relaxation time but as a builder there was no such thing as relaxation.

After a short timeframe of 10 days the family accepted my quotation. I stated I would prepare the contract and deliver it to them for acceptance and signing.

This was to be the start of issues where I did not understand or yet utilise Contract Law.

At this time as a builder there were no computers to use so I had to use a typewriter to type up the contract using carbon paper, which took some hours and something I never received any time spent payment for.

I arranged for a time to attend the site, the contract was signed, and a small deposit was paid.

Please note, these stories are not about costs, but examples of how and why the need for Contract Law comes into play, later within this book.

I drew up the plans myself by hand on a large drawing board using what was known as transparency paper in a blue ink.

Hence the term “blueprints.” The next day I had to drive thirty minutes away from my office to have the plans photocopied and I used one of the copies to colour the proposed addition areas.

I knew a draftsman in Guildford and occasionally he would draw up plans for me when I was too busy to do myself.

I delivered the plans to the client for approval as well as having the client sign the Council’s “building application”, then known as a (BA).

At this stage all is OK, the plans were submitted to the local Council, and three months later, I received the Council’s approval. Yes, three months!

The next step it was to drive to the city and this time to the Metropolitan Sewerage and Drainage Board, (Water Board) in Sydney to obtain their stamping on the approved plans, prior to commencement.

Bummer! The Water Board advised me the additions were near the board’s sewer, so I had to arrange for what was called a “Peg Out.”

This is a process where the Water Board sends a peg down to determine the sewer pipes depth and what is formally known as “The Zone of Influence”.

A small variation was entered, to cover the peg out costs of the water board and revising the plans footings and piers now required to be past the zone of influence. The variation was accepted by the client.

Finally, I was able to contact the client to arrange commencement.

These new additions consisted of a timber floor built on brick piers, a timber frame and conventional frames roof, lined externally in AC sheeting, aluminium sliding windows, a matching red terracotta tiled roof with plans of a large family room, a new kitchen, bathroom and new laundry with rear exit veranda and timber steps.

The site had a fall from the front yard to the rear yard making the additions approx. 5 feet (1.5 metres) up off the ground level to the underside of the timber bearers or to the top of the brick piers formally called sleeper piers.

At last, we commenced!

This job was given a timeframe of five to six months as the client's daughter was getting married and wanted to hold the wedding reception inside the new additions.

I agreed to that, but I stated to the client this time frame is subject to the weather for obvious reasons.

Talk about pressure on the builder!

On commencement we removed the old rear doorway and completely blocked up the old opening with a sheet of marine ply.

We demolished the existing rear veranda and concrete steps, as they would now be in the way of the new kitchens plumbing and drainage.

I advised the client firmly on what I was stating; that they could only access the rear yard by way of the front door and walk down the side of their home for about 3 months or until the additions had reached lock up stage and the specified ply sheet flooring was laid.

The client became agitated over this fact as he was an overweight man and didn't walk very much, so his wife advised me!

We excavated, laid the steel reinforcement and poured the footings, laid the brick fender walls, brick sleeper piers and engaged piers then installed the DPC, ant-capping, timber bearers and floor joists.

We were about to lay the specified ply sheeting for flooring when the client approached me and varied the contract to Oak, Tongue & Grooved secret nailed polished floorboards.

I advised them of the additional cost and the additional time it takes to install this type of strip flooring, plus the time it takes for acclimatising oak timbers, as required.

The wife accepted and a variation document was signed. We constructed the Oregon timber frame on site on top of the now open bearers and joists and stood the wall framing.

We pitched the conventional timber framed roof, we installed the windows and new sliding door unit, installed the timber fascia, gutter and installed the AC sheeting to the external walls and eaves and timber trims were fitted over the external lining's joints.

The roof tiles were installed within two days of the lock up of the walls.

The Oak floor was then delivered and stored in a small area on venting blocks which is a procedure required for timber flooring to be allowed to acclimatise before laying, as stated previously.

Now the story gets quite insane...

I had a phone call at home from the local Police saying I had better get to the Merrylands site ASAP, so I drove to the site immediately.

What had happened was the gentleman client, being the large lazy man of the house, had decided to unscrew and remove the rear marine ply covering. We had fitted this ply over the old rear door opening from the inside to which he allegedly proceeded to access the rear yard area over the now open timber bearers and joists.



A photographic example of open timber bearer and joists.

He had fallen directly between the timber floor joists which one of the timber joists had crushed his testicles. He then had a heart attack and consequently died on the timber floor frame. 😞

The job was stopped for a complete investigation by the relevant authorities, which took 6 to 8 weeks.

In the meantime, our income source was drying up and we needed to keep the works going. The sub-contractors wanted payment for the works they had done to date.

The client was obviously in mourning after her husband's funeral and I found it difficult to seek directions from her.

I finally approached her, after being given site clearance from the authorities, only to be faced now with a court "statement of claim" for damages and delaying the building contract.

W T F!

Remember this was not my fault, nor caused by any of my actions.

I fought it in court on the grounds of "delay caused by the client".

I lost, and I had to pay for the wedding venue hire, the delays associated with the site investigations and pay in excess of \$15,000 legal fees, go figure! Gotta love this legal system!

I thought this was an outrageous result, but it was a life lesson in learning about what I now call “contemporaneous note taking”.

In this project I only took advice off the client and I acted on everything they said, which was OK at the time, I thought, until it all went sour.



Training Methodology

## **Baulkham Hills, NSW, 1984**

This was a project also referred to us and the client was my first son's kindergarten teacher.

The project was to be an addition consisting of a timber floor on brick piers, a weatherboard cladded, timber framed and a pitched into the existing structure concrete tiled roof.

We were to build a new entry foyer, split level living room, kitchen, two bedrooms with built-in robes and a bathroom with a separate toilet.

The client wanted an Architect to be involved so they provided the designs and proposed working drawings.

The client engaged their own Architect, contracted and paid them directly to which this designing was not part of our building contract requirements, as per the way these clients wanted it to be.

All the planning was eventually approved by Council and the Water Board and the project commenced.

We reached the stage of frame, roof and lock up in the agreed time frame.

As far as we knew we had followed the plans that the Architect had drawn up and what was approved.

The Council had visited the site and approved ALL the required stages of construction, up to this current lock up stage.

It was now brought to my attention by the client; “the internal stairs are in the wrong position”. Mind you, it has been built this way for over 2 months and it was clear for all to see, even me.

I then approached the client, with the approved and signed plans and the building application to show them what we built from.

I showed the client the area of conjecture on the plans by looking at “Section AA” where the Architect had drawn and showed the stairs within the living room from the new entry foyer.

However, the “Plan View” showed the steps within the entry and not in the living room, hmm!

Who is wrong here, you ask?

I immediately contacted the owner's Architect and had him come to the site to speak with the client so an explanation and a conclusion could be reached.

There was a conclusion all right! Such conclusion consisted of the Architect stating, "It was a pencil error and the builder should correct it".

WHAT?

Yep, you guessed it, being the builder, I was lumbered with the rectification works and the costs associated with such rectification.

I was not going to accept that fact.

I went to a Lawyer who advised me the Council should never have approved the plans due to there being errors within the design.

"The client engaged the Architect" the Lawyer stated.

In the meantime, the client terminated my contract and I had no idea what that meant. I had never experienced being sacked from a job, let alone a self-employed one.

The Lawyer explained to me the client is also at fault and not to worry. I trusted what the Lawyer was stating. The matter went to court some 18 months after the fact.

After sitting in the court room for two days, I lost because the Magistrate stated, "You as a prudent builder should not have started the project till the plans design was rectified!"

Another one of my life lessons!

My son, then changed schools!

## **Kings Langley Hills - NSW - 1992**

This was a project where the client contacted us from the “Yellow Pages” phone book.

The clients were a husband and wife and the wife’s parents, obviously, the husband’s in-laws.

The husband pulled me aside at the quotation to advise me he did not like his father-in law. Great, I really needed to hear this!

This project was to be an attached granny-flat to the right side and down into the rear yard of the existing dwelling. It consisted of a timber floor, brick veneer and a concrete tiled pitched roof.

We were to build two bedrooms, built-in robes, a living room, kitchen, a bathroom and laundry with a separate side entry area, as well as an individual access entry onto the existing properties current rear veranda.

The client provided their own designs, as agreed, and Council approved plans.

Granny Flats take time to be approved due to dual occupancy requirements of the local Council.

I advised the client in writing, that in this building contract we are not liable for any errors or omissions as the client had provided their own plans and approvals, to which they agreed to. Meaning in the event of errors or omissions brought on by the client then I, as their builder, would not be liable.

Thank goodness I learnt this along the way. Well, So I thought!

The contracts were signed, and the project commenced. The first stage was the demolition and site preparation work.

On the commencement day we found out, the in-laws had now moved into the main house. The first thing I thought of was that the son-in-law will not happy, obviously as they were his wife's parents.

The client occasionally joked over this fact and at times the wife would go off at her husband over making fun of her father. Something a builder does not want to be a part of under any circumstances.

One day the in-laws made us all on site some morning tea and cakes and invited us onto the rear veranda to sit a while, and talk, hmm!

I started to see that controversy and debate was now developing between all the parties to the building contract.

I kept away from this because I didn't want to get involved. After all, what the hell does it have to do with me, the builder, if they argue and don't get on?

I began suffering and had feelings of anxiety; at least I thought that's what it was. I had felt like this before and started to wonder is this normal? I had a bit of an odd feeling and my wife took me to the hospital where they advised me it is stress after they did a couple of tests and advised me to slow down. Yeah right!

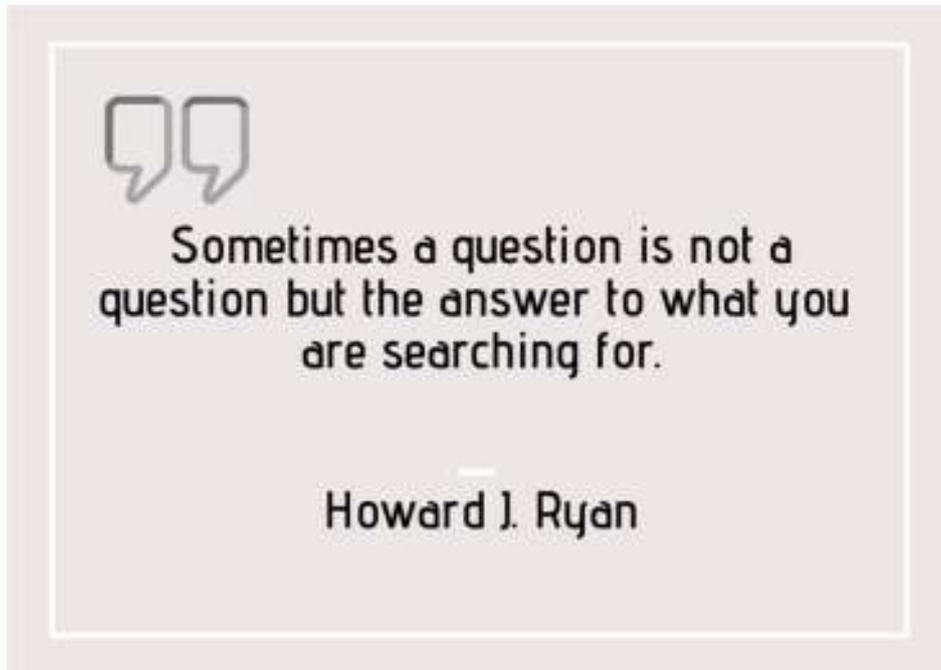
I called my Lawyer to discuss what I could now see was evolving here.

My Lawyer advised me to now start documenting everything including any conversations that were not related to this project.

His advice assumed this documenting everything will slow you down a bit and relieve any stress. He said, "Even add in those conversations you previously had with the husband about him not liking the father-in-law".

I bought a diary and a separate journal for this project and started writing entries, each day about what happened on this site. In 'he said', 'she said' format, dated and timed, and or, on and about timing statements.

I didn't mind doing this, as at the end of the day I felt fresh and relieved, as if a heavy weight had been removed off my shoulders; there was the relief of my alleged stress, it worked!



Training Methodologies

The granny flat reached lock-up stage and the Council stage inspection approvals were all clear.

We approached the client to sort out the final electrical point positions and started confirming what had been pre-arranged.

The father-in-law, had an argument with the son-in-law and now wanted separate power metering, water metering and gas connections all with separate associated billing.

Hmm, this'll be fun, I thought.

Not my problem!

I advised them this would involve additional costs as there now needs to be separate meters installed.

The variation was accepted by the son-in-law and the associated works continued.

Some weeks later, another argument erupted, and the father-in-law stated he is not going to live here and was not paying out any more of his money.

Great, I thought, only to find the initial client's being husband and wife, were now separating.

I was now stuck with \$20k in bills and owed \$35k of a \$95K contract!

You must be thinking by now, this builder (me) is a goose and how does he let all this keep on happening?

The answer is I don't, I follow the contract, it is the client's that cause the issues.

I now begin to think to myself that it is time to start studying and revising the contracts instead of being stuck in the tunnel of deceit and trickery!

## **Penrith, NSW, 1986**

I was caught speeding one day in 1986 in my ute doing 89kph in an 80kph zone, the cop was on a motor bike and caught up to me quickly.

Once the cop gave me the speeding ticket, he said, “Oh you’re a builder?” “Yes, I am” I said. He could see this because I had my building businesses name on the sides of my work ute.

He said, “Great, I am in the market to have a new house built in the Penrith area so would you like to give me a quote?” “Sure” I said.

Then he gave me his phone number and I thanked him, but not for the issuance of the speeding ticket. ☹️

I provided the quote to the police officer some days later, which he accepted. Then I gave him a preliminary fixed price tender and a sketch plan of his pending design.

I proceeded to have the tender signed by the client, to commence the planning and approval stages.

As is usual, I was paid a small deposit and upon receiving the cheque the client said to me, “Just to advise you if you do the wrong thing, I’ll put you off the road!”

I gave the client the cheque back and said, “Sorry, I can’t help you!”

This may seem a bit harsh; however, I am a builder, not a punching bag.

I was beginning to think differently and foresee future issues and was convinced this sort of crap must stop or it will stop me!

## **Blacktown, NSW, 1985**

Whilst working in my home office on a Saturday afternoon an out of the blue phone call led me to these new clients; a middle-aged couple with a couple of young kids.

He was a businessman and she was a model of some description.

This couple at the initial stage, were extremely obliging in allowing me time to prepare everything they wanted.

At the first quoting meeting they made me a cup of tea and offered me some cake. Strangely this made me feel uneasy. They requested my family and I to attend barbeques and family events with them as they were so excited with the fact of building their new home.

It felt odd over their implied niceness.

Anyway, this project was one of the most expensive jobs I was about to enter; a \$250k, three storeys, four-bedroom home with a double garage, large office to be constructed on a side to side sloping block.

A quote was accepted, and the deposit paid. Paid in cash! hmm

It turned out this client's business only dealt in cash, which worried me once again.

This home was too big for me to design and draw up myself as it would take me too long and take me away from the other projects I currently had under construction, let alone my valued family time.

Being a self-employed builder took me away from family, and still does, so I did what I thought was my best as a father and a husband and I engaged a draftsman to draw the working drawings.

This took him six weeks to achieve after many sketches and plans back and forth to the client for their approval.

The sketch plan was accepted, and we had the final working drawings completed by the draftsman and the Structural Engineer. We then submitted the plans to Council.

Council wanted to make some minor changes to the site works which took another 6 weeks to conclude.

These additional site works were to be carried out by the homeowners once the project was completed being retaining walls, fencing and site drainage.

In the 80's there wasn't a lot of emphasis put on site drainage and it was normal for the homeowners to do their own site drainage themselves as a part of their landscaping processes.

It's a lot different today as the building codes have changed dramatically forcing builders to incorporate such site drainage into their building contracts or at least install drainage risers to allow the clients to grade their land or concreting into these drainage inlet points.

The plans were consequently approved, and the construction works commenced.

The foundation works for this home were quite dramatic and extensive. A foundation is what the home is to be built on, meaning the soil and not the footings. Not a lot of homeowners know this fact.

Another revision was the concrete footings were now required to be re-designed a lot deeper than what was constructed prior to 1985.

These footings were 1200mm (4 foot) deep and 450mm (18" wide) with F12TM (12mm/1/2" steel mesh) reinforcing steel.

I was hoping and praying there was no rain at least till the concrete was poured in these footing trenches.

The concrete was poured! With a sigh of relief. I thanked God, as I was afraid if it rained these trenches would all cave in.

The bricks were delivered, and the bricks were laid to the required floor levels. Due to this site being a sloping site, the lower level consisted of a double garage, storage areas and a large home office area.

The timber floor structures were laid, and the timber floor sheeting installed. We had the floor inspections approved by Council and the Structural Engineer because there were extensive steel structures in this floor framing layout.

I was pleased that the progress payments were made.

Finally, the frame and roof trusses were delivered which enabled us to erect the house up to the complete frame and roof structures stage.

The windows were delivered and consequently installed, and progress kept going.

At one stage the wife said to me, "Why haven't you fitted the flyscreens?" I replied, "These will be installed at the end to prevent any damage to the screening?".

I could see she was not happy here and was just picking on silly issues that were not relevant at all.

Now we have an issue!

Then I had a call from my brick supplier representative. The brick company had sold the balance of our project's bricks by error and were now making us new bricks!

"Here we go", I thought! How do I explain this to the client?

The new bricks were to be delivered after about a five-week delay which was going to set us back quite a bit.

Builders do not want this sort of delay as it makes them and their clients very edgy.

I advised the proceeding trades of this delay in writing, yes by letter because I didn't have email back then and I felt a simple phone call may be overlooked by the proceeding trades.

My trades all knew this was my way of operating.

In those days it was a lot different to what methods of communication is done today between clients, builders and tradies. These days we receive a call backed up by a text and an email.

So, in today's building construction market there is no hiding behind an unanswered phone. Today there is simply no excuse why a major communicating fact in construction methodology should not be provided.

The client, upon their inspection of this new brick delivery, bought to my attention these bricks were of a different colour and did not match what was already built.

Hmm? Here we go again, so I contracted the brick manufacturer.

Then, I received a very odd phone call out of the blue. The wife called me and advised me, in a very stern voice, they are now going through a difficult time with their own business finances and may not be able to complete the home.

**f%%h\*^(E#C%>/f#6U.....** I exclaimed!

I tried to remain calm, but I simply just lost it, wouldn't you?

A little while after this call, my kids were playing in our back yard when the husband turned up to see me at my home office. I noticed someone driving too fast up my driveway.

I was in my home office and rushed out to see what idiot had just sped up my driveway, noticed it was the client and in front of my kids he verbally abused me and physically pushed me into the office wall and said, “Don’t you ever argue with my wife!”

This caused my youngest son to start crying. I remained calm, or tried to, and I stated, “Well, you wanker, what the hell do I do now, if you can’t afford to complete the home you are now under contract to?”. He replied, “Go to Hell and sue me!”.

Why am I a builder? I thought to myself.

This disaster placed my business into a very high overdraft with my bank. I was almost up to my allowed limit on my overdraft. Two days later I went to see and consult with my bank manager to discuss my problems due to the client pulling out of the job.

I parked my ute in the centre’s car park when I went to see the bank manager and, on my return, after forty minutes, I came back to find my yellow ute had been severely vandalised.

It was sprayed all over with brown spray paint, a sharp tool had been used to make large holes in the roof and bonnet, all panels had been dented, the ute's back tarpaulin was cut, and the back window had been smashed and was severely cracked.

I felt sick thinking "who would do this?".

All I could do is I go back into the shopping centre to find security of some description and when I found someone, I showed them the ute and they advised me to go straight to the police, so I did.

I reported it to the police and to my insurance company who suggested I find out if there was any CCTV vision of the actual vandalism event, bingo!

There was some hazy CCTV vision made available from the shopping centre carpark's cameras and it was eventually determined, after an investigation by the police and the insurers, it was my client that pulled out of the job who vandalised my ute.

The police contacted me to ask if I wanted to press charges. I thought about it for a while as I wanted this mongrel to feel how he made me feel, however, I did not press any charges as I just wanted to get the hell away from these very odd and dangerous people.

I let my insurance company do the charging, which they ended up suing them, and from what I heard the client had to pay back the insurers for the damage they caused to my ute.

In the end, this vandalism to my ute had increased the costs to their business and eventually, their marriage. Good things come to those who wait, not the right attitude to have but what the hell!

I didn't lose very much money out of this job, as a matter of fact I was about \$2k in front after all the now due invoices were paid.

The tradies soon warned me these clients had to be watched as they were talking about me behind my back to them. This is not a good look and I knew something was not right with this client.

The project was eventually successfully legally terminated due to the breach of contract caused by the client. After a while I returned those original trouble making bricks back to the brick manufacturer and received a complete refund.

So, I was another \$8k in front.

I asked my Lawyer, “Do I refund this \$10k over payment to the clients?” he said, “Forget about it, they are long gone,” so I did exactly that and forgot about them.

What a bloody nightmare!

My sons still talk about this client today and how they saw him hurt their father. I know how it feels to see your father hurting, so I felt for their own situation and still do to this day.

Just after a three-year period had passed, the site was still vacant, and the timber framing had discoloured! Not a good look, under any circumstances because it looked like I had abandoned the site.

I heard from a business class I was associated with at this time that the client’s wife had an affair leading to their divorce.

That’ll teach him!

# REASONING

After experiencing all these previous facts as told in my War Stories, I am now thoroughly convinced that many builders and their clients don't have any reasoning.

Reasoning is an intelligent person's action of thinking about something in a logical and sensible way in order to form a conclusion.

## What constitutes reason?

It is the capacity of consciously making sense of something by establishing and verifying facts.

What is the difference between the conscious and the subconscious mind? The conscious mind is the part of mind which is fully aware, and the subconscious mind is a part which is not in complete awareness.

Your conscious and subconscious minds work the opposites.

Once a fact has been proven there is your reason.

Where was the logic within the last chapters of War Stories?

This chapter is about what type of interpretation is required in the residential construction and the home inspection industries.

Sometimes a builder will wonder what the hell just happened; did I do something wrong? Reasoning is supposed to be logic.

Were all these past War Stories issues valid?

I started to think it was all just a dream, until in the end I had to sell my family home and start again. I hid this real factor from my children to shield them from any associated pain, so we had a “Selling the House Party”. They loved it, pies, sausage rolls, lollies, chocolates etc and what kid wouldn’t love that; I know I did when I was young.

A builder knows when they have done wrong, because they are waiting for the client to move and question their credibility.

My opinion of credibility at that time was to be able to produce a service based on the competency of the qualification I held.

A building contract must be entered into in ALL cases of construction. Without a contract both parties have no real understanding of what they are doing.

From time to time I have matters come across my desk where there is no building contract and eventually the client wants to lodge a claim against the builder.

Based on what?

It is often a difficult process to do as we have no idea what they have been instructed to do, let alone carry out the said hearsay building works.

Such building contracts are to legally include annexures being the tender (a quote), a scope of works, construction and warranty insurances and the sketch designs prior to the actual acceptance.

In some circumstances the insurance policies will follow once payment is made to the builder as these insurances are very expensive to provide, so it's best to have a valid acceptance prior to obtaining these insurances in all cases.

However, getting to that stage, also incurs time and substantial costs when preparing the scope of works and the designs.

A scope of works is a complete list of what is to be included, and “why”. Unfortunately, many builders forget about providing the “why” factor.

In the event there are delays in the construction, you the client, should always insist on knowing the reasons “why”, with the true facts only, not lies or fabrication.

Why not? You need to ask yourself.

Proven facts will be your answer to the “why” factor and you have every right to insist on knowing “why”.

Scopes of works are sometimes assumed by both parties, which is not proof and is totally unreasonable for anyone to expect what is to have been included in the contract.

Any prudent builder dealing with a reasonable client would accept this fact, but there is a problem here as how will you know if the builder is a cautious one, and if the client is a reasonable one? Hard to find guys.

Firstly, any prudent builder will have a current relevant state builder's licence, a few testimonials from past clients, several photos of their works, a social media page and the ability to answer all your questions.

A CV is also something the client should be issued in all circumstances. If not all this is not provided, then run! Believe me, after almost 50 years in this industry, it's just not worth it!

A reasonable client will have the ability to interpret the builder's scope of works because they are the ones who told the builder what they wanted in the first place, thus being called an instruction. This being one of the leading elements within Contract Law.

The designs must be in continuation and in conjunction with the existing copious and contemporaneous notes taken by both the parties to the contract, instructing the builders what are wanted as to what is needed. More about contemporaneous notes later.

This must be clearly deciphered by both parties in the first instance. Such notes are to come from both sides of the contract.

The builder can only put on paper what the client wants as instructed. The client tries to relay to their builder what is needed, yet knowing full well, it cannot really be afforded.

A builder needs to know everything required prior to providing the actual tender. Only to find out the unreasonable attitude of the client now being able to afford what they want. This is the difference between comparing the notes that both parties made during their consultations.

Approximate estimates **must** be provided throughout the tender processes so both parties to the contract are on the right path.

There is nothing worse than spending your weekends and after hours working tirelessly on unrealistic quotes and tenders. Once the difference is confirmed, there are the actual design requirements.

All a builder wants to hear is, “Yes”

and

“Please go ahead”

and

“Here is your cheque”

and

“Thank you”

A builder does not want to hear, “No”

or

“Call me later”

or

“I can’t do the plumbing on that day”

or

“You’re too slow”

For obvious reasons. Anything else really means nothing, without the above statements of confirmed facts being said.

Homeowners and clients cannot interpret the costs of construction, as they feel what they are telling the builder to do, is easy and inexpensive, let alone in a short construction time.

You cannot understand construction costs by just finding out the cost of an item and then adding in an estimated hourly rate to do so, as there are other expenses associated in running a building business.

A younger builder within their apprenticeships time frame, are never taught what to do in the event of a dispute, let alone what to do if a dispute was to escalate. TAFE and Colleges did not teach these facts in the 60’s and 70’s.

It was more about learning how to lay a floor, build an operating window, how to hang a door, pitch a roof and build a set of stairs.

Geometry was not one of my favourite subjects. I always referred to specific roofing books for conventional roofing construction.

It wasn't until one day my older son sat me down and explained geometry to me, now I get it, thanks son 😊 xx

In those days, after your succession at TAFE, you passed your exams and then went to find a job or become self-employed into a business.

Some years later, we were advised its best to go to a business college to learn how to run a business. I did just that, to a point.

The MBA (Master Builders Association) and the HIA (Housing Industry Association) ran these sorts of day to day training courses.

To obtain your builder's license in the 70's, this sort of business training never came into play in applying for a builder's license. It was as I said, some years later, I needed to know more about business in general.

I and many of the same guys I went to TAFE with, were none the wiser when starting out in all our businesses.

I personally learnt the bloody hard way and face to face issues, hit hard with trying to handle them, myself.

In today's market, social media and reality TV programmes are misleading and deceptive, to say the least. They do not portray what happens between a builder and a client.

Mind you, the theme of this book would make a very popular TV reality series to watch and see just what goes on in situations of disputes. It would be nothing like "Judge Judy".

It only takes one client to drop the bomb, "I thought you would do it this way" and then start doubting you, the person with the actual construction qualifications.

As experts in this industry, I prefer to call this, "An unfortunate occurrence". Never fall into the trap of thinking the time frame to build what you are contracting for is a short process. It is NOT!

Experience is accumulated knowledge, good or bad. If you have too much good, you become complacent and if you have too much bad, its back to school you go.

Some builder's and home inspectors think they don't need schooling, until they are caught not complying with their contracts.

Today, 2020, builder's contact me in reliance to obtain specific requirements as stated in Australian Standards.

You guessed it; they don't carry these standards because they are too expensive to maintain.

Australian Standards are currently on the stock market and when they are sold, profits go to shareholders. That's pathetic, especially when **all** builders need to follow these documents.

In 2020 the average and reasonable construction time for a two storey, four-bedroom home with a double garage, is eight to twelve months.

An addition to the rear of a home consisting of a family room and one bathroom is approximately the same build time, go figure.

Every builder lies about the time something will take to build as they want to win your heart, so they get the job. You, the client, do not want to wait eight to twelve months, because they appear to do it quicker on TV reality shows and you think this is the norm. Really!

A complete bathroom renovation will take a minimum of six to eight weeks after you have selected all that is needed, as drying times are required to be followed for the waterproofing and for the wall and floor tiling to be successful.

A complete kitchen renovation will take approximately four to six weeks after the kitchen has been ordered and made ready to install. Just note the average kitchen can take up to six weeks to be manufactured. If you think it will take less time than this, then you are being unreasonable.

If you think these timing comments are reasonable, then you are a reasonable client.

Many clients and builders ask for a fair and reasonable time frame to allow for the build, so make sure this is confirmed before acknowledging the signing of the building contract, always in all ways.

I have been involved in administering various building contracts over the years and in all cases both parties were unreasonable at one time during the contract period.

A dispute can delay a project up to two years, so be aware of this fact and pay attention to the signs.

In the 1970's and 1980's I was an unreasonable builder, because of inexperience. How experienced is your pending builder?

How experienced and reasonable are you, in attempting to obtain a prudent builder?

Do you use phone books, social media, forums, referrals or the internet?

A referral is just the same as using the internet because the person who referred the builder, may be getting paid to do so on a commission basis. Just like a Real Estate Agent receives a commission to sell your property.

All this will cause you grief, until that first face to face meeting. Body language is king here, so learn about it. I use body language as an initial test when meeting a tradie or an inspector for the first time.

You will know when someone is lying or trying to pull the wool over your eyes as their voice changes, they find it hard to be still and you should look at their eyes to see if they change direction. This is a key give away to a lie.

Knowledge is power, but only if such knowledge is based on facts from one's tertiary education levels. These are all the signs that someone is lying to you.

Therefore; Communicate! Ask questions and make budgets so you know what direction you are heading into.

## **Do your research**

- Think before you speak
- Time your discussions
- Ask how long the builder has been in business
- You must conduct an Australian business “ASIC search” and ensure the builder has a current ABN (Australian Business Number).
- Conduct a “NSW Office of Fair Trading” license search
- Research and read everything you can on each other because everybody’s character is discoverable today one way or another.
- Social Media is a dangerous platform at times as one’s character can soon be judged right or wrong, so ensure you know exactly what you are looking for if you are researching on social media platforms.

This is one reason I provide all my clients with a copy of my CV, so it immediately identifies me and my competence.

Make lots of notes prior, during and at the end of construction as issues are also discoverable, by both parties. It’s important to know when it all started to go wrong. Knowing these proven facts will save you and your project in the end.

A journal detailing the construction is gold in the event of a dispute. Contemporaneous notes are allowable in one's chronology once submitted in affidavit form to a pending court hearing.

**To form what is reasonable; All statements must have an ending**

**For example, if either party says something like:**

“I thought”

or

“You told me”

or

“Shouldn't you do it this way”

or

“I read it that way”, are all inconclusive statements leaving the other party starting to doubt their ways of thinking

**It is always best to end your statements with;**

“I understand”

or

“It's essential to do it this way”

or

“What is it now you no longer understand that you did at the time of acknowledgment?”

or

“It complies with the scope of works”

or

“The Australian Standards are clear, so I cannot do what you are now requesting”

or

“I understand how you feel, I just don’t agree with what you are thinking”

and finally,

“I apologise, for your misunderstanding”

Some may feel closing statements like this are disrespectful, however they are not. It’s all about closure in common communication which applies to both contracted parties. All the proof you have collected will have consequences and such consequences, will not cause you any grief.

**“WHAT IS THE OPPOSITE OF ORDINARY, AN EXPERT”**



My wife, Diane and I and, she is the reason I am still sane!

This book's purpose is to educate tomorrow. What you promise each other, you must deliver. Not delivering a substantial performance, is failure. A dispute is then inevitable.

### **Other forms of being unreasonable are doubtful remedies.**

In the event rectification of construction works is required, be very careful on what is agreed on.

When defective works, incomplete works and or non-compliance is found, then the same applies on the perception of being reasonable when it comes to the rectification of these inept works.

Time also needs to be reasonable as here the builder has admitted liability and is embarrassed about this fact, so it's best to agree on a reasonable time frame.

Never go on about why the builder has left you with works like this, as he she doesn't know himself (or herself).

A firm note on this issue is **all** builders must have access to the relevant Australian Standards that are currently available before they build.

In today's market, unfortunately these standards can cost up to \$15k per year to maintain.

Otherwise you the client will end up with a non-compliant construction.

Some builders believe they know everything there is to know, well they don't!

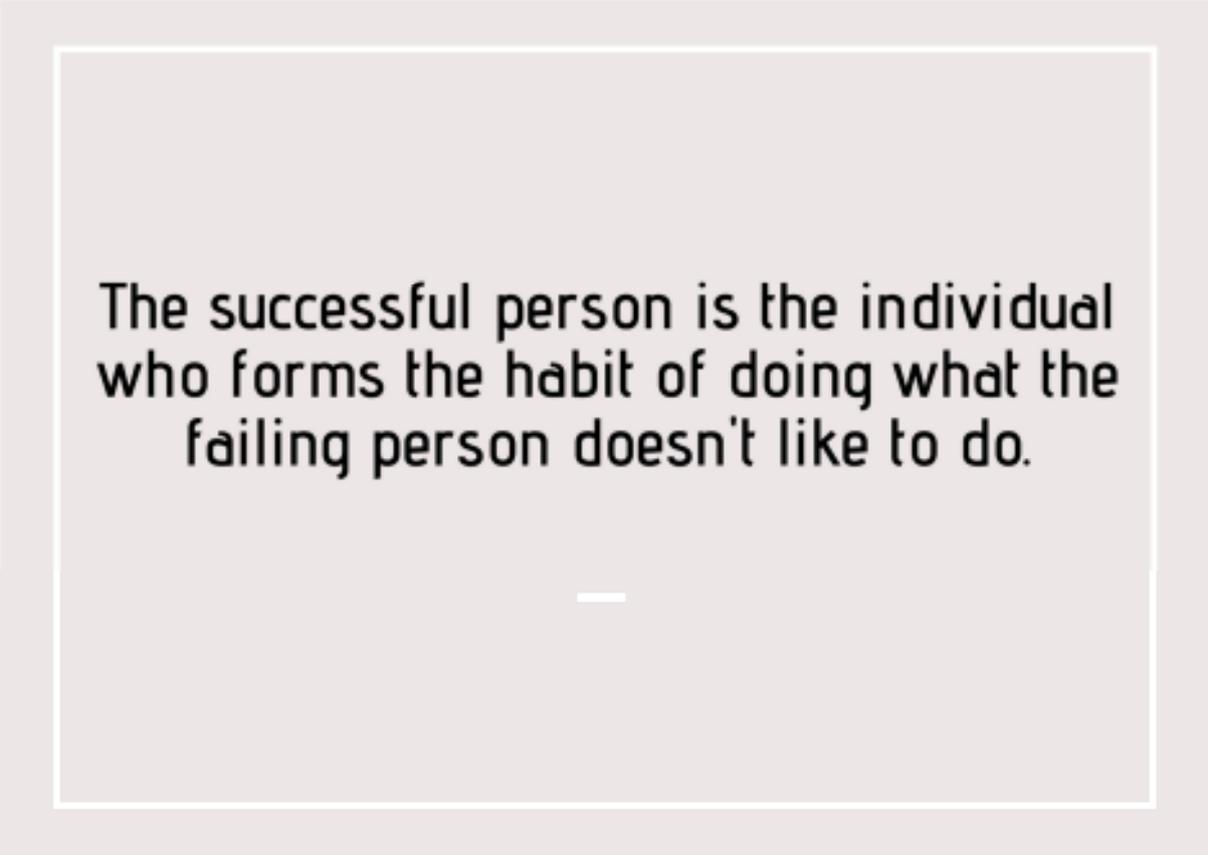
An unreasonable comment to me recently was when a large residential builder asked me, "Where do I get the Australian Standards from?" I thought, "Are you kidding me?"

Know your position within this industry and separate yourself from any assumed competition.

## **Separate yourself from the undecided.**

From time to time unjust enrichment comes into play without either party really knowing, and it happens when variations are entered without the proper acknowledged paperwork.

Meaning: when a client requests additional works, the builder agrees to do the works without the appropriate paperwork, then carries out the works, the client is unjustly enriched should the client refuse to pay for these varied works on what was originally intended and then allows the builder to complete. This unjust enrichment is also formally known as a unilateral contract.



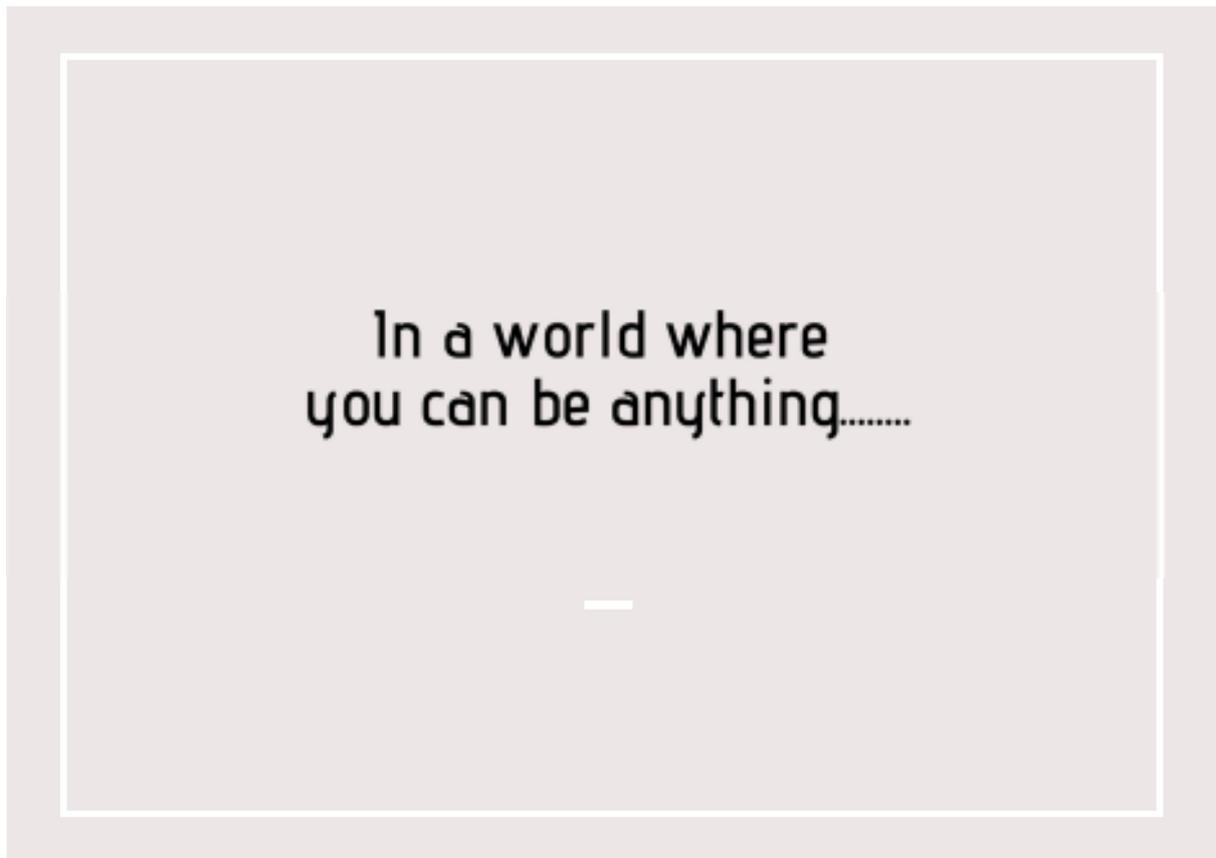
**The successful person is the individual  
who forms the habit of doing what the  
failing person doesn't like to do.**

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# NOTE TAKING

Note taking happens in various forms like:

- A journal entry
- A diary entry that is written in dated and timed format
- Contemporaneous notes (notes taken at the same time)
- Copious notes (many notes taken)



Training Methodologies

## An example and an appropriate note taking layout

Item no	Builder Said (BS) Client Said (CS)	Contemporaneous dated and timed statements
1	BS  CS  BS	20-4-18 @ 4:00PM When will you be making the payment please Mr X?  20-4-18 @ 4:15PM I will make a direct deposit tonight  Thank you, Mr X
2		
3		

It is really this simple! And, very effective.

Without notes, you will become over lawyered, then over charged.

Either way, those who do not make notes will end up in a “Hearsay” format, which will become unfounded.

Hearsay is inadmissible in court hearings and will eventually create doubt between the parties.

I suggest you read the “Rules of Evidence” and the “Experts Code of Conduct” so that you can understand why this statement is being relayed to you, the reader of this book.

These are all available on the internet, so you have no excuse in not pursuing these rules and codes.

The Building Code of Australia, now called the NCC (National Construction Code) is available for free from the ABCB website.

Doubt will discredit you in the most important time, when you need someone to listen to what you have to say about a situation.

An example is, when in court under cross examination, you have a limited amount of time to prove your point, without such appropriate note taking, you are only wasting your time, effort and money.

In Court, you must provide direct answers under cross examination otherwise the opposing sides legal representatives, will just make fun of you and, this is not a nice situation to be in.

All conversations are best written in contemporaneous form being "he said", "she said" with dated and timed format as per the previous example above.

A journal written in contemporaneous form is simply a miracle, once completed appropriately. No one can ever go against such evidence.

It is also a form of training your mind to never end up in a dispute as such notes are your best recollection of what you witnessed.

When you form the habit of contemporaneous note taking you will have a clearer memory of all that transpired in the conversation.

To figure out what you would like to forget before you forget, you will need to think about the details of that memory. Having such notes will help you in that area.

I always carry a small notebook with me, what I say and do is written and then placed within each of my client's file. If I need to remember something, I write it down.

I'm often asked; "How did you remember that?" – well now you know!

Evidence is what will be called for in the event of a dispute.

Having such evidence will nip any dispute in the bud immediately upon exposing to one another what was said at the time it was said.

Notes are like photographs, a memory of what you saw and what you wrote.

Copious notes are lots of notes. Try not to become confused here, as it is a very simple process. If I wrote down everything my mum and dad told me, I would see exactly how I became the person I am today. Then maybe you would not be reading this book.

What do you do when confronted with a lot of information that will give you direction?

What are you going to do now?

“Acknowledging those around you, instils the best outcome”.

If you think it is expensive hiring a professional, wait until you hire an amateur.

#### Training Methodologies

Copious notes are awesome when it comes time for a review session. Such review sessions can be when each party goes back in time to relive what was said.

When evaluating your current situation, without notes, your sub conscious mind plays tricks on you and you start to believe what it is you intend to say, therefore you make a complete goose of yourself, and just state the inevitable.

Think before you speak! In court, a stenographer makes such notes in shorthand format so a transcript can be produced on exactly what has been stated and said in evidence.

What is the difference here?

You need to do the same!

It's a very simple process that will save you acrimonious amounts of time when you need it most, like developing a chronology for an upcoming matter in a tribunal matter or just a simple meeting with your builder, bank manager or even your lawyer.

If there is one thing I can't stipulate enough; that is take copious amounts of notes.

**For Building Inspectors:** If you have the ambition, Housesafe Training Academy has world renown training incentive to keep you there.

Note taking in these forms are more believable than that person boasting their opinion in an instant.

House flipping is very popular in the USA!



**For clients:** Are you a house flipper or an owner builder?

An opinion is only a subjective belief and is not plausible. However, an Expert's Opinion is believable under certain circumstances e.g. when giving evidence based on a proven CV or an individual's credentials.

An assumption is a proposition that is taken for granted, so never assume anything. As it will only make an **ass** out of **u** and **me** (*ass u me*)

# SHIFTING INDEMNITY

Indemnity is a form of an exemption from legal liability. To shift it away from one's self is a special talent. Many builders and their clients do this without really understanding how.



SWIMMING POOL WARNING SIGN

NSW REGULATIONS 2008

A pool area warning sign is a form of shifting indemnity by alerting the action required when you first enter a pool area.

At times, a client will say to their builder, “In the building contract it states……!”

This is a form of shifting indemnity thus forcing the builder to revise their construction documentation.

A builder will say, “It’s within tolerance!”

**For clients:** This is their intent on shifting indemnity back to you, yet such tolerance methodology may be unknown by the builder and most likely backfire back to the builder.

Don’t place yourself into a situation that allows the other party to be persuasive, under any circumstances. Remember one’s opinion is only a subjective belief and may not be based on any proven facts.

Go from making a big deal, to being, a big deal

Read and research on what is being stated to you and just say “I’ll get back to you” that way you are still actually shifting your responsibility and indemnity towards a more definitive outcome which creates doubt in the other persons mind.

As a kid in the 60’s, I guess I did this all the time when my mum said, “Time to come home now”. I would delay the process by continuing to play with my friends in the street, until my dad came out with the belt in his hand and just stood there, said nothing, just looked! A hell of a way, to shift indemnity, eh!

Due to my years of experience in the building and building inspection industries, many home inspectors and builders, around the world, call on me to answer their questions on what they should already know. I don't get this!

I guess they feel this action is "Tradie Accountability" but it would be best for them to acknowledge this fact themselves.

The problem is in my replies, being; "What is it you are searching for and what part of the relevant standards or SOP's (Standards of Practice,) are you now not sure of?"

This is shifting indemnity back to them!

By answering a question with a reverse instruction, makes the other party do the proper research themselves without having to rely on you.

Now that's shifting indemnity.

When reading a direction, that's shifting indemnity from the person providing such directions unless you go on with the direction, only to find you have been misled.



Howard Ryan speaking at an international conference in Orlando, Florida USA 2018.

When you build a bridge, what end and direction do you start walking across first?

Are you sure?

The hardest section is finding your way across.

Never underestimate your true ability.

Statements like;

“How did this become a problem to you?”

“What is it you now, no longer understand, that you did at the time, of acknowledgment?”

“I apologise for your misunderstanding!”

Are all statements to use when the need arises to shift indemnity?

Note taking will help you in this situation to prove how to shift indemnity, away from you.

You can then say and believe, ***“I’ve got this!”***

**For clients:** Be aware of shifting costs within a building contract, this is formally known as “A variation”. A variation is intended to alert the client on potential latent costs arising from dormant construction, where in a high percentage of the time it should have been included within the contract price in the first place.

An example is, site costs being the pending connection of the new works services, site preparation, cutting and filling, site drainage, hydraulics and piling required to support the house slab etc.

A builder must provide Geotechnical Reports on the land to where your new home is to be constructed on identifying the soil classifications so a prudent designing Engineer can focus on the type of slab required suiting such soil classification.

Always research this fact as on a few occasions, Engineers have erred within their designs.

The foundation you are about to build on, in most cases, will be built on clay soils. The problem is, when a foundation gets wet, it will cause your home to heave upwards and drop within dry periods.

Clay is like a piece of wire, if you bend it up and down over and over, it will break, which is what is going to happen to your home if you build on clay.

All Engineers know this fact.

Not all Engineers act on it, how will you know?

On many occasions, sales teams at exhibition homes, will not know the true end costs of your new home purchase, which leads to latent unknown variations.

Be prudent and very aware of this fact before signing up.

As a builder in the 70's and 80's, I never had variations like this. I prudently always discovered what was required for supporting the construction before I gave the final contract price.

This made me an expensive builder, not a competitive one.

Competition is a dangerous word.

Those who fall into the competition trap could possibly suffer the wrath of insolvency later within their business.

In the event a home buyer requests their home inspector to provide a cheaper fee it is just best to walk away, because it's a good sign of a difficult client.

Another form of shifting indemnity is the client running out of funds and saying to the builder, "I'm waiting on funds from my lender or bank". The builder does not want to hear this, ever! However, most builders will continue with the works not really knowing what will happen next.

They just go on hope and trust. Possibly leading to business death; by bankruptcy.

The client had consequently shifted the indemnity back to their finance provider, so all builders should then stop works immediately until clarification is proven, beyond reasonable doubt.

Now the builder has shifted the indemnity back to the client by stopping the works and issuing an extension of time due to a financial delay by the client.

Most building contracts will have clauses embedded in them on extensions of time.

Do you get what I am stating here?



Shifting Indemnity in the wrong direction could end with this place being your new home!

# I DID NOT SAY THAT!

Oh yes you did!

This is a common term used in disputes to try and remove self-embarrassment in a time of being confronted.

Sometimes we put ourselves in places that only we  
can get out of!

It's scary at times to be involved in a dispute as one of the parties has diverted away from the contract's intent

Remember in an earlier chapter about Note Taking? This is where it all comes to light. If you don't have notes, you can't prove the other person is wrong.

For example, Mr Jones builds a new home with Builder X, Jones says to X, "You told me the land levels would not affect my car," and X says, "I did not say that!" The land in this matter had falls from the front to the rear.

Let's solve this BS once and for all!

On the plan there is what's called "RL" Levels. RL means reducing levels. These RL levels, are what a builder must build to.

This will be the true levels from the front kerb level to the top of the slab and or timber floor finish.

Jones had bought a new car after the fact of their builder starting construction. Builder X did not know this. Nor does he really need to.

After the driveway was laid, Jones drove his new car into the property to test the vehicle's access, only to scrape the car's under carriage on the concrete driveway.

To cut a long story short, Jones had a normal height car when first meeting with X and X made contemporaneous notes of levels which were agreed to by both parties.

Jones had traded in his old car, for a new lower sports car which did not suit those as agreed levels.

Thank God for contemporaneous note taking!

This dispute was handled by me.

I had a copy of X's contemporaneous notes and the approved plans, a photo of Jones' original car and I researched that cars specifications which confirmed the original car would have suited the as agreed concrete driveway falls and conditions.

We had organised mediation with the contracted parties, Jones and X. After 15 minutes of deliberation and proof of the relevant documentation and taking levels Jones conceded and soon decided his new car was a bad decision.

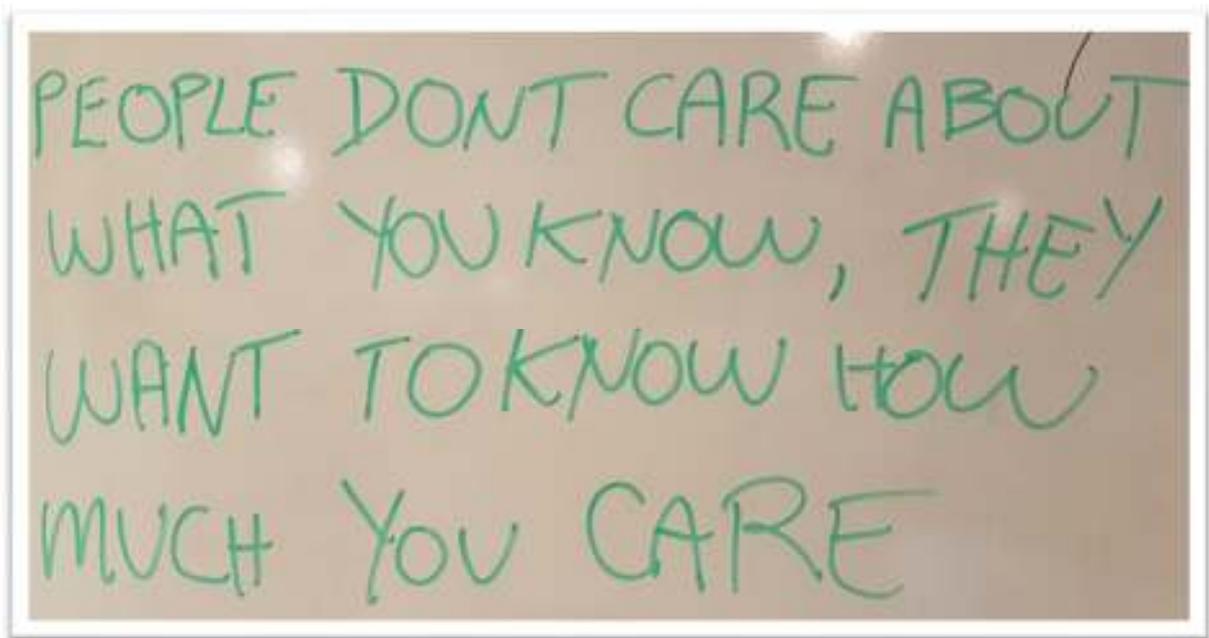
Can you now see the importance of note taking before disputes?

It can and will cost you up to \$100k or more, in legal fees if you don't take contemporaneous notes.

Deciphering disputes by proof within the notes before court directions, wins every time.

He said, she said examples of notes are taken by a very prudent individual.

Another one is, “I thought you said” is a way of closing an argument yet being a soft admittance of guilt.



Training Methodologies

A definition of “I did not say that” is an implication of an event of not saying that, which is interpreted as denying just the accusation about yesterday, while being silent on the previous event.

# HOW DID THIS BECOME A PROBLEM TO YOU?

On many occasions' clients will go behind the builder's back and ask for other opinions on what the client feels may not be quite right.

Now this is very dangerous!

This is also known as unqualified opinions. I receive many calls from people, who are building new homes. They at times advise me, their friend is a bricklayer, and they told me, my bricklaying works are defective!

This starts off a domino effect; The builder is then accused of doing defective works, without any real proof.

Perception cuts in on the client's mind, who immediately believes what they have been told by their friendly bricklayer.

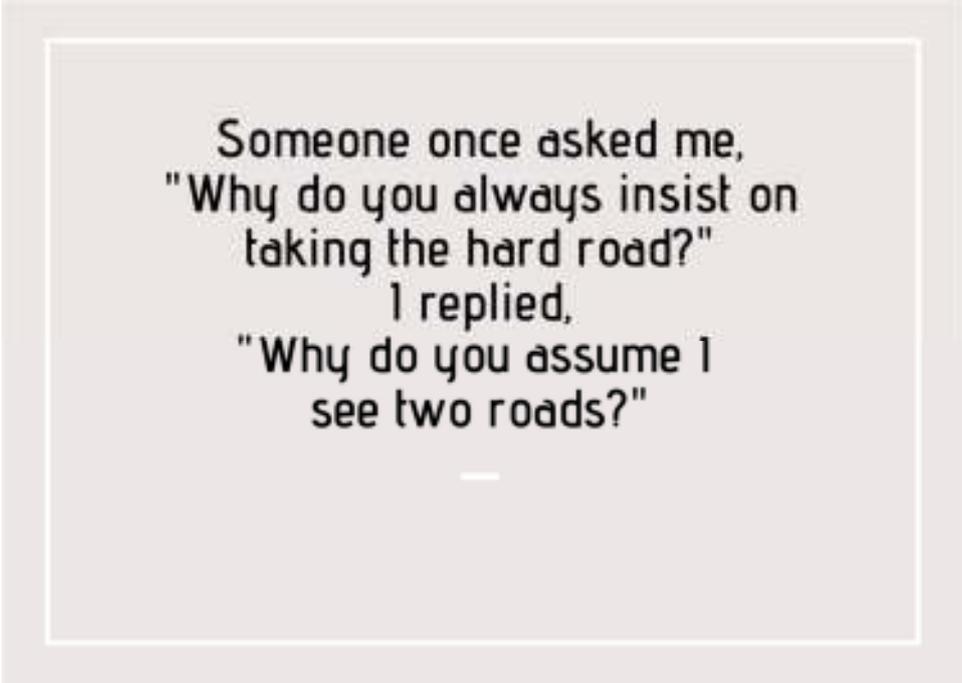
To be honest, I am sick of these types of calls, because over 95% prove to be frivolous and unsubstantiated in the end of our investigations.

Builder's, in this case, must immediately ask for the client, their bricklayer and an independent source, like us, to meet at the site to discuss, "how did this become a problem?"

These sorts of meetings go many ways:

- The client's bricklayer is wrong,
- The client's bricklayer does not turn up to the meeting,
- The builder fights the client,
- The client does not show up,

I am left here to decipher right from wrong. Believe me, if I am left to sort it out, either the builder or the client will end up being wrong and one will walk away with their tail between their legs.



Someone once asked me,  
"Why do you always insist on  
taking the hard road?"  
I replied,  
"Why do you assume I  
see two roads?"

Some of the larger builders will send out their construction manager, who has no bricklaying experience and is purely loaded with instructions from senior management.

This never goes well!

So, what to do here?

Have an expert, such as us, look at the building contract, the plans, the scope of works and the tender, know and have immediate access to the relevant Australian Standards to end with a binding conclusion in the form of a “Deed of Agreement” between both parties to prevent this sort of unqualified actions and opinions from ever happening again in any similar situations.

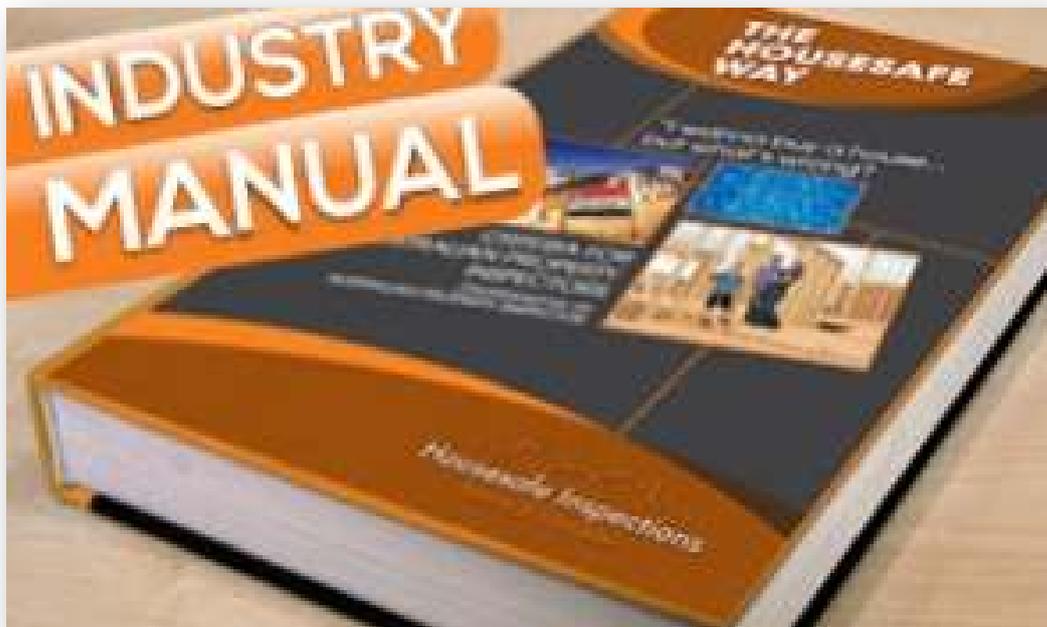
The residential construction industry has no one to blame but itself, due to lack of ongoing training, inept continuing professional development, education initiatives, social media interaction, forums and illegitimate no proof product reviews.

Social media can be dangerous at times, especially when many people join in giving biased opinions, inconclusive assumptions and provide trouble making answers of no real relevance.

Just remember Social Media is just that, Social, as well as websites and computer programs that allow people to communicate and share information on the internet using a computer or mobile phone:

Changes come with vision.

Always ask an industry expert for an expert opinion.



HOME INSPECTION INDUSTRY MANUAL DEVELOPED IN 2010

Never doubt an industry expert, unless their credentials say so. I estimate over 40% of our enquiries are based on unqualified opinions and inconclusive findings thus making them inadmissible.

### **What is unqualified?**

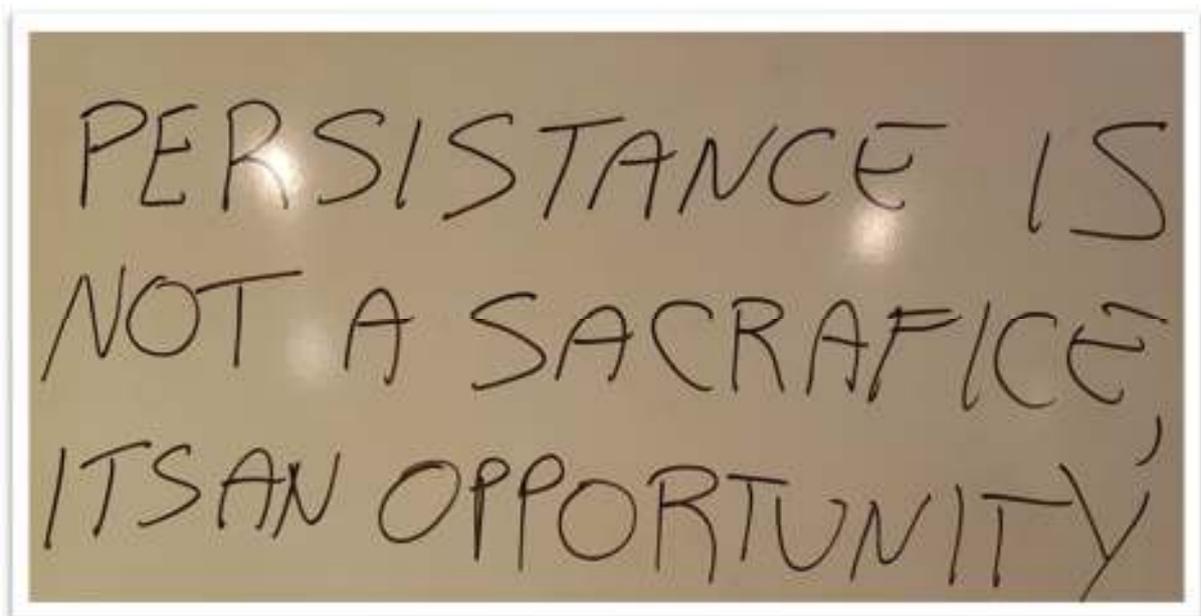
“Unqualified” is an incompetent individual who is ill-equipped to make statements of relevance relating to our industry.

### **What is inconclusive?**

“Inconclusive” are generalised statements with no confirmed ending and pending directions that take you nowhere, like an instruction to go and buy something that doesn’t tell you what type.

### **What is inadmissible?**

“Inadmissible” evidence once proven to be inconclusive cannot be used when trying to bring an event or associated issues down.



## **What are unrealistic expectations?**

“Unrealistic expectations” are unlikely to be neither true nor proven due to the believer having a stronger desire to dictate how they want others to deliver their illegitimate beliefs.

## **What are interrupted expectations?**

“Interrupted expectations” is where a client’s family member, gives an unqualified opinion on how their home should be built; we as experts, intercept and request proof beyond reasonable doubt from the family member showing such breach of the Code or the Standards.

They never come forward with our instructed request.

A home buyer suffers from this. At times making their dreams shatter because they never understood what was being provided in the first place.

Many problems develop when either party does not read nor acknowledge what is being contracted for, (the contract) or being carried out for them.

The provider of a contract or a report must also seek acknowledgement from their clients, mainly the fact they have read and understood these docs by requesting they have done so in written form, **NO EXCEPTIONS!**

I have tried this on every occasion since 1998 and since then, never have I had a client with a pending dispute. This methodology speaks for itself! This is a key performance factor for all businesses to follow and never assume a client's signature seals this fact, because it doesn't!

A wave effect will eventuate if you don't follow the 5 Elements of Contract Law and these elements below, will save you and your business.

# 5 ELEMENTS OF CONTRACT LAW

The average person has heard of the 10 commandments; however; the 5 Elements of Contract Law are not commonly known.

A law once known, can be easily be followed and if not, a punishment of some description will most certainly follow.

I don't want to keep you waiting any longer, so here are the 5 Elements of Contract Law:



Instruction  
Offer  
Valuable Consideration  
Acceptance  
Acknowledgement

Every time an agreement is made, it **MUST** be in writing.

This must be followed in the order as stated on the previous page to mitigate pending disputes and losses.



New York City 2019

**“INSTRUCTION”** is to ask for a direction or order....

- Please provide me with....
- I want a quote for....
- How long have you been in business?...
- What if you did it this way?...
- Detailed information telling how something should be done....
- What is your license number?
- In sport, it is your training....
- In a restaurant, it is your order with the waiter....

- A Lawyer gives details on what is required by an expert in legal matters....

In an argument, it is what the other side is on about!

Instructions in residential construction are “I want you to build,” “I have a budget of” “I want a four-bedroom home” etc.

Instructions in various types of home inspections are “I would like to have you conduct a Pre-Purchase Pest and or Building Inspections on a property I wish to buy,” or “I am building a home with ABC Building and I want you to inspect their works for defects please,” or “I noticed something on my new build and I need a professional to inspect the works to clarify my thoughts”

**“OFFER”** means to....

- My price is....
- The tender cost is....
- The contract price is....
- Your car service cost will be....
- The service you have instructed us for, will be at a cost of....
- The menu costs are as shown....
- Your variation costs will be....

To issue an offer is to have presented something based on the instruction received.

This Immediately identifies a moment in formation where the parties are of one mind.

To put forth the offer is to answer an instruction.

**“VALUABLE CONSIDERATION”** is....

- Legal consideration to undertake that has some economic value for a contract to be enforceable....
- The time that is taken for someone to decide on the service to be provided to you and the value of such service....
- Examples: To choose a piece of cake, pick out clothing, decide on a menu selection, pick a wife or a husband, tiles selections, selecting prime cost items like taps, towel rails and shower screens and alike, choosing paint colours, deciding on a specific tradie or a Builder etc...
- Precious time in this process....
- A reflection to think about possible consequences....
- The What if Factor!
- This can take 5 seconds or many years....

Something of worth or value.

Consideration is required as an inducement to enter into a contract that is enforceable under law.

**“ACCEPTANCE”** means

- Go ahead please....
- To actually buy and to part with your money....
- Sign and Date a contract....
- There is NO SUCH THING as a real verbal contract only in the event acceptance is not proven....
- To approve....
- Recognition....
- Phone conversation followed later with written conditions awaiting signature/s!

A proposal when the person to whom the proposal is made signifies their assent thereto the proposal is said to be accepted.

A promise

An agreement

**“ACKNOWLEDGEMENT”** must be followed

- Acceptance of the truth or the existence of something....
- Great, I am happy with that....
- To acknowledge the performers in theatre by clapping....

- To acknowledge those involved in the writing of a book by buying the book....
- You have eaten the entire meal and made payment....
- Yes, I have read & understand this document.... (this claim must be in written form & not expressed nor implied)
- Should they ask a question, then this is NOT acknowledgment....
- That's not what I thought it was! Is also NOT acknowledgement....

Writing to the contractor declaring what is provided to be true and correct.

An example of using all the 5 Elements of Contract Law:

- A builder is instructed to build a home,
- the builder provides a tender with the cost to build the new home,
- the client considers the tenders offer based on the value of what the scope of works and specifications incorporates,
- the client instructs the builder to proceed and accepts the offer, then finally acknowledges all the terms, conditions, annexures, inclusions and exclusions and contract clauses by stating so on each page in writing within the building contract.

Signing and dating on EVERY occasion.

Contract law is a very simple process

One can also do each of the 5, on acknowledging each of the following lists of confirmed defect categories:

- **A- Damage:** *(visual disruption resulting in loss of value or the impairment of usefulness)*
- **B- Distortion, Warping and Twisting:** *(a change in the shape of an image resulting from imperfections)*
- **C- Water penetration:** *(the egress or entry of forms of water & dampness)*
- **D- Material deterioration:** *(alteration and a decline of the products original intended finish)*
- **E- Operational:** *(not fit for proper functioning & / or ready for intended use)*
- **F- Installations & Appearance:** *(inappropriate fitting & finish of a products intended use)*
- **G- Incomplete Works:** *(works that are yet to be completed as was originally intended & lacking in part)*
- **H- Safety:** *(a duty to report on these issues to bring it to the attention to the Homeowner)*
- **I- Defective Works:** *(marked by subnormal structure or function & a general word for a kind of imperfection)*

- **J- Non-Compliant Works:** *(works that are to be completed as per relevant Australian Standards & or Codes)*
- **L- Inconsistent Works:** *(items not the same throughout & having self-contradictory & conflicting elements)*



Contract Law simplifies your mindset.

### **This is what happens when the 5 are not followed:**

The opinions of homeowners are at times overlooked or ignored by sales teams in “Exhibition Home Estates”

### **A Court example submitted under lay evidence is:**

*“Your honour, my wife & I visited a New Home Exhibition Village. We liked the appearance of this home, so we went in. Upon entry we were asked if we would like a brochure, I said, “Yes please!” We walked through the home, came back to the*

*sales team and sat down to talk about what we saw. I stated, "Is what we see within this home, what I get?" (Instructed the potential buyer) "Yes" was replied, "Great let's do it....."*

The end of this story was the home cost \$76,000 more and the husband and wife couple could not afford it

The matter was settled on the grounds of "hearsay" and the lack of acknowledging what was included before going through the exhibition home and the builder was entitled to charge the varied additional costs.

Always follow the 5 in everything you do to avoid circumstances like this one

Many circumstances pertaining to contracts for construction and home inspection reporting, pass over my desk week to week, month to month and year to year.

The first question I ask is, "What were your instructions to them and what was their reply?" as well as, "I'm happy to assist you, but first please provide me your own acknowledgments that you signed all docs stating you have read and understood such contract terms, conditions and or clauses"

It, (acknowledgment of clauses etc), is never provided.

## WHY NOT?

This indicates to me that the residential construction industry and the home inspection industry is ignoring a basic requirement of contract law.

The industries are severely displaced and broken.

I am not interested in listening to any excuses like, “I signed the contract, and I thought this meant the client acknowledged our T’s and C’s” NO, this is not acknowledgment, nor is it complying with the contract law requirements.

Those reading this section of this book will form a difference of opinion. In the event of a forum or a social media event was established, I will instruct those concerned what was the offer I gave to pursue such event.

I was not given any reasonable time to consider the value of such event and will never acknowledge in doing so.

In new construction the tender, the approved construction plans and the building contract are the documents to which must **all** be part of doing the 5.

A *Contract* can be provided in many types:

**Written:** This being the most common and the best way to enter into a legally binding and enforceable agreement.

**Spoken:** Speech between the parties can be taken as a contract and is always best to be followed up with specific written terms and conditions.

**Unilateral:** Is one which involves an exchange of the offeror's promise for the offeree's act. That is, in a unilateral contract the offeree does not make a promise, but instead simply acts.

Such a contract can only be by the offeree's performance, therefore is considered enforceable by the offeror.

**Bilateral:** Is a contract where the offeror and the offeree make promises to perform.

**Frustrated:** One or both of the parties becomes aggravated by non-performance of one party. A contract subsequent to its formation, and without fault of either party, becomes incapable of being performed due to an unforeseen event resultant in the performance under the contract being radically different from those contemplated by the parties.

This sort of (frustrated) contract would never eventuate once written acknowledgments are provided.

**Competence:** Is another element to consider, by ensuring the contractor is qualified, licensed, insured and able to carry out the instructed service.

**Legality:** Of a contract is vital to ensure the services to be provided will be in conjunction with relevant standards and coded requirements.

Client's **capacity to pay** is at times overlooked by some builders, only to end up in a dispute later, yet this can be easily resolved by adding this to your own acknowledgments prior to commencement.

## **What is a good contract?**

The only way to fly; this contract clarifies the issues and assists all the parties to make well informed decisions. In all cases where a good contract is in play, it will be a lot cheaper than going to court.

A **good contract** is also in the form of a “Deed of Agreement” between the parties because they have preconceived what is to be provided by both parties.

A contract is a tool to be used, so don't be a tool, by not following it!

**For clients:** Never let a tradie or a builder say, "I'll do it cheaper for cash and no contract" You are just asking for trouble in that case, let alone breaching state taxation laws.

Those clients that go ahead with that sort of agreement, can't really afford to do the proposed works in the first place, which is why they are happy to have the works done cheaper thus obliging with the other parties' unrealistic expectations.

I am the CEO of The Housesafe Training Academy where Contract Law is taught to all its trainees to ensure the best methodologies are instilled into their own business practises.

Even large volume builders and project builders are coming to us for our training.

This academy was also set up as a travelling campus which goes world-wide to ensure Contract Law is stealth enforced between all contracting parties.

A contract is a direction based on an instruction!

Keep your eye on the entire project.

**Statute of limitations:**

These are laws passed by legislative bodies in common law systems to set a maximum time limit after a specific event within which legal proceedings can be initiated, so ensure you deal with any pending issues, immediately.

Well it's about time, is all I can say!

# CONSTRUCTION PLANNING THROUGH TO HANDOVER

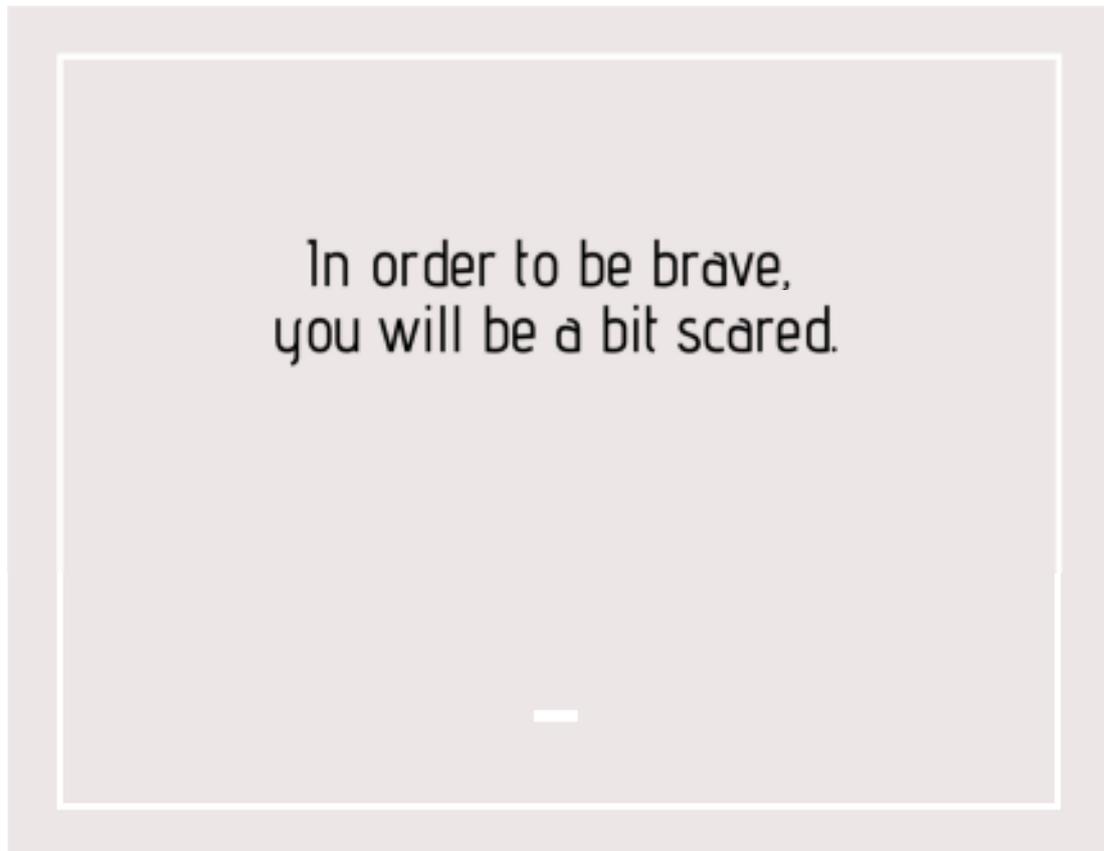
As a previous hands-on builder, I know what is required in residential construction. It is a time consuming and a tedious process which in the end, not all involved, are cooperative.

Examples are the structure in administering construction with such enormous processes, is failing from the beginning.

These processes are within:

- sales,
- design,
- latent and discovered variations,
- acceptance processes,
- administering design changes,
- administering a building contract, what you see at an exhibition home is not what you get,
- delivery of others expectations,
- PCI (Practical Completion Inspection),
- alteration in such processes,
- handovers on completion of the contracted works,
- warranty time frame management and the required maintenance rectification works.

There is a very thin line here and some builders have crossed over such line and believe it was ok to have done so. Well it's not ok!



Never rely on this process going smoothly because in the beginning the design and approval processes takes time, especially if you change your mind on something.

It's important to ensure your final design is it, prior to going in for its DA approval because If not, then your building application/CDC construction plans will have to be amended which again takes time, so don't go changing! Get it right the first time.

While your plans are awaiting approvals, go shopping, have a holiday and don't go looking for your tile colours or paint colours yet, it's way too early.

By taking time out and away from the home's construction processes, will alleviate the stress involved in not truly understanding what is being done. You'll get plenty of time to do selections later.

Start enquiring about your independent inspections. You only need a frame inspection at pre linings stage and again on completion after you do a final walk through with your builder.

Ensure your independent inspector has a builder's license and can prove their competence.

There are big problems within the home inspection industry, as in NSW, they are not regulated, therefore opening the flood gates up for individuals that think they can earn a fast dollar.

Again, Buyer Beware!

## Q&A INSPECTIONS

### TO PROVE QUALITY AND ASSESS IT IS “RIGHT FIRST TIME”

When choosing an inspector, ask to see their CV and research them and their ability, before you decide on using their services.

Once approval has been granted by Council, your builder can soon begin.

**DAPS** are Dispute Avoidance Processes and if you follow this process you will understand the construction methodologies.

DAPS are in 3 stages

1. Preliminary
2. Secondary
3. Primary

They mean,

1. The first stage you must review all your contract clauses, the scope of works and the planning documents.
2. The second stage is where you will re-assess the construction to ensure all is on track and in compliance with all the docs and if not, tell your builder in written form only, and

3. Finally, the most important stage is the primary stage, to ensure progress payments are up to date, and any variations, that were in written form only, have been completed prior to making any further payments.

Once your slab or timber floor is laid, ask your builder to allow you onto the site so you can get acquainted with the floor size and the area. The same applies once your frame and roof is erected.

If you wish to look at the project, respect the site supervisors associated with your project.

The site supervisors are mostly overworked and will require approximately a weeks' notice to allow you time on the site.

**Never** enter your site without the site supervisor present, if the builder finds out, you are then in breach of your contract with the legal obligations under OH&S legislation. You may also suffer the consequences of penalties and construction delays caused by your breach!

Once your home is at lock up stage you can then have another look so you can see where your electrical rough-in will be placed.

At this stage is also a good time to provide your builder with your colour selections. Some builders will require you to select all your colours, tiles, bricks and PC items earlier, so be prepared for that.

This takes time, so prepare your timing around your existing family and workloads.

You should request copies of the following certificates prior to completion to ensure all has been competently certified for your warranty purposes.

**The following Certificates and or Warranties are to be sought from your Building Contractor:**

1. TERMITE TREATMENT NOTICE: The pest treatment type used in this construction, the name of the contractor and the warranty. Clear directions must be shown in relation to annual inspections. (A Termite treatment notice is fitted within the meter box unit which MUST BE followed.) ***NOTE: The reticulation system must be compliant with AS:3660 and the entire system is to be encased in a 150mm barrier.***

2. Engineer's certification for the concrete slab's reinforcement, that the building is as executed on the approved Engineer's plans, all structural steelwork & LVL timber beams, if installed and Hydro Engineer if applicable.
3. Copy of the stamped and approved construction plans.
4. Frame and Truss manufacturer's certification for bracing layouts. (*Same applies for steel frames*)
5. Homeowners Warranty Insurance Certificate.
6. Final survey document.
7. Interim and / or Final Occupation Certificate.
8. All the associated inspection report sheets for the staged inspections to ensure all works were completed as intended.
9. Wet area and waterproofing warranties and compliance Certification.

10. Plumber's Certificate of Compliance for Plumbing, Metal Roofing (*if applicable*) and all Site Surface Drainage follows the required Australian Standard, AS: 2870.
11. Electrician's Certificate of Compliance.
12. Shower Screen's Glazing Certificate.
13. Smoke Alarm Certificate.
14. BaSIX Certificate: Installation of the as contracted wall and or ceiling insulation, the exhaust fans and range hoods to comply with BaSIX requirements as was originally certified. (The insulation, installation also to comply with the requirements around any installed ceiling down lights and any fitted exhaust fan units.)
15. Wall and Ceiling insulation, installation certification that the insulation installed in this dwelling complies with the relevant Australian Standards.
16. Window and Sliding Door adjustment Certificate from the manufacturers final service.

An extremely important issue to ensure this item has been implemented in your construction, is site drainage. Formally known as overland surface flow.

This means when it rains, surface waters cannot pond next to any of the external walls of your new home, otherwise the structure will suffer the wrath of settlement, and then you will not be happy.

The NCC, (National Construction Code) is very clear on this fact. Refer below to excerpts NCC 3.1.2.3 and FIG 3.1.2.2

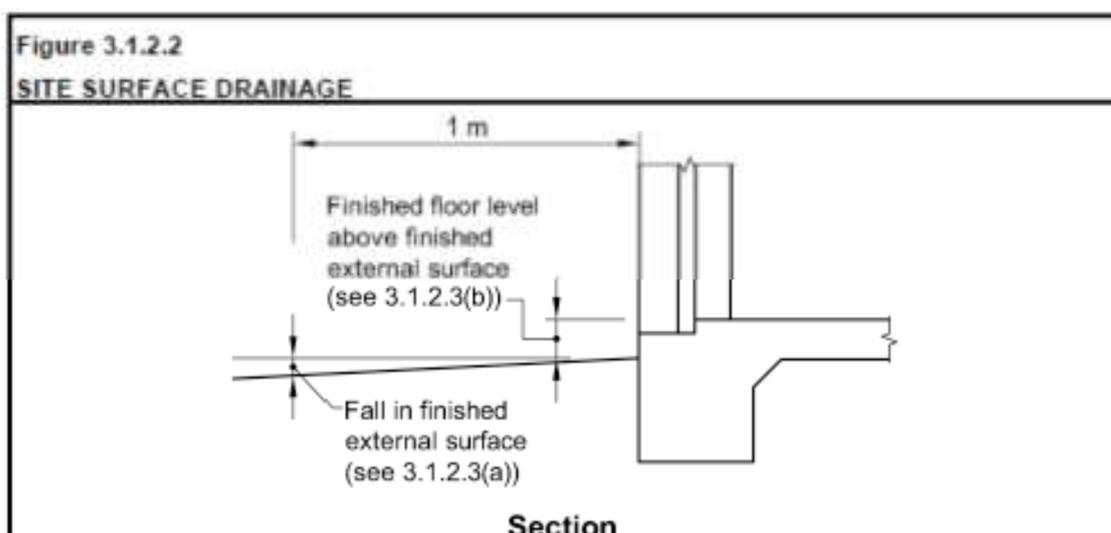
### 3.1.2.3 Surface water drainage

*Surface water* must be diverted away from Class 1 buildings as follows:

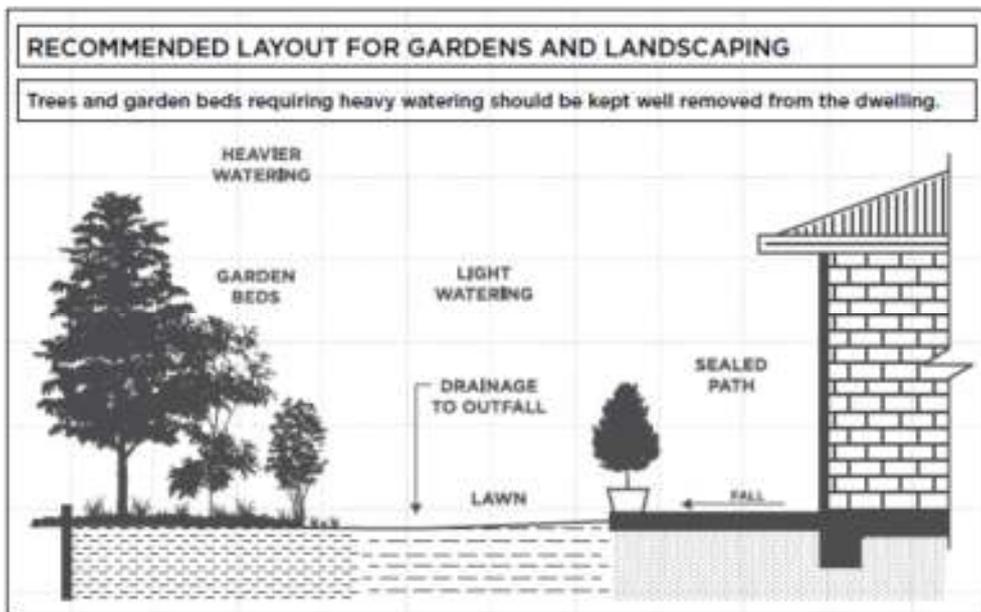
- (a) Slab-on-ground — finished ground level adjacent to buildings:

the external finished surface surrounding the slab must be drained to move *surface water* away from the building and graded to give a slope of not less than (see Figure 3.1.2.2)—

- (i) 25 mm over the first 1 m from the building in *low rainfall intensity areas* for surfaces that are reasonably impermeable (such as concrete or clay paving); or



In the event you are doing your own landscaping to your site, this MUST be followed



The NCC is free to all and is available online by searching the NCC Volume 2, with the ABCB (Australian Building Codes Board) and the year the home was initially approved for construction.

I suggest you read it, so you are well equipped to understand basic methodology of the code for residential construction.

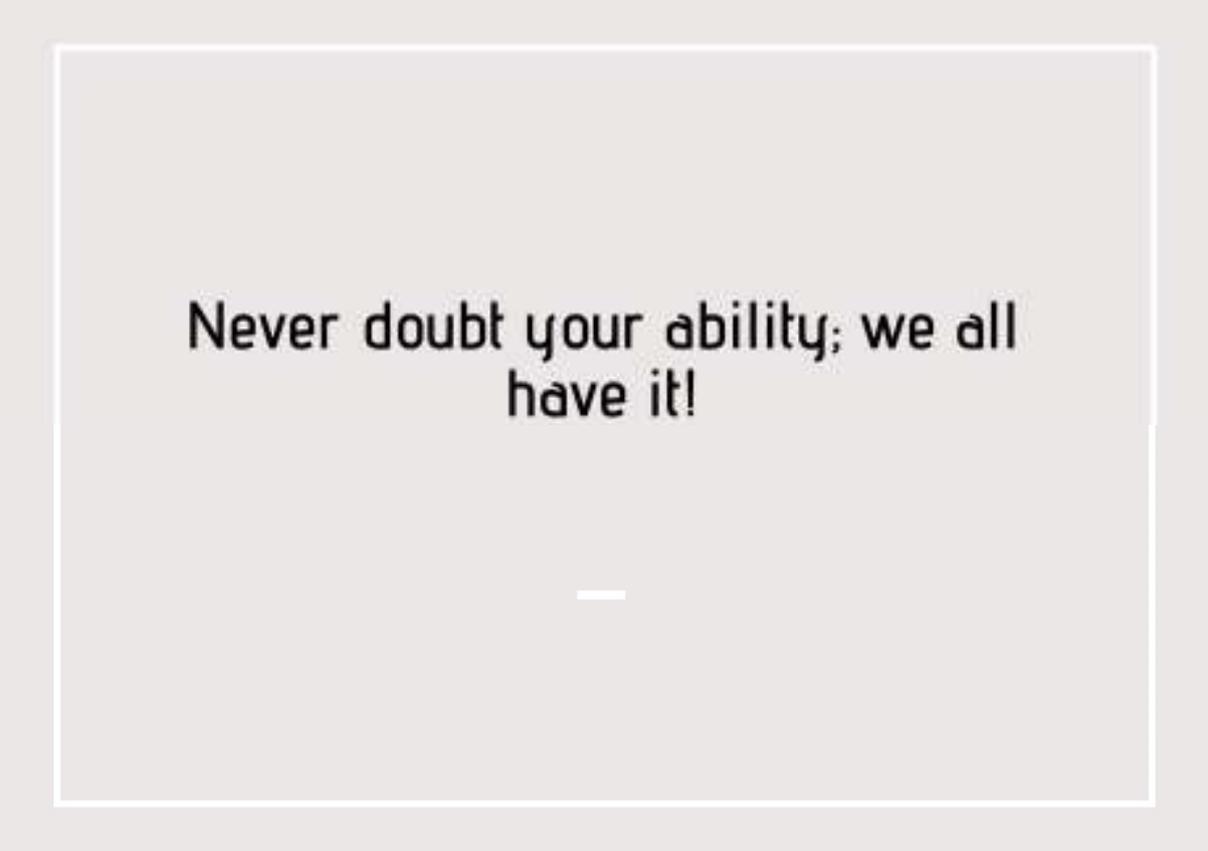
Never overstep what your responsibilities are.

If you feel the need to find out what a builder does in certain circumstances, then ask another builder.

# **PART TWO - THE HOME BUYER AND BUILDING INSPECTOR**

# SHIFTING INDEMNITY

In conversation about a property purchase, a pre-purchase home inspector can and should only answer questions pertaining to their areas of expertise and the home buyer should never go outside that fact, yet they do!



Never doubt your ability; we all  
have it!

## Training Methodologies

Most home buyers are excited about their purchase and only want to hear, it's OK to buy, not the problems or the issues that are associated with the purchase such as termites, mould, safety issues, faults and defects that will end up costing a fortune.

Therefore the home inspector will use terms like, “It’s essential you acknowledge to me once you have read and understand the inspection report” this is in fact shifting the indemnity back to the reader of the report that needs to make a well informed decision here on the biggest purchase of their life.

This is a hell of a responsibility, on both parties.

HOW EDUCATION IN TRUTH AND REAL TIME CHANGES,  
GET IT RIGHT!

# OWNER BUILDERS

Other ways issues become a problem to you can be caused by Owner Builders. In Australia, we state Owner Builders are someone who touts themselves as being accepted after approximately 8 hours of online training.

Real builders take up to seven 7 years to become qualified! Some even longer as they pursue university degrees in construction.

Let's use a similar example here of me saying, "I am an Owner Mechanic" and can now work on your car, NOT!

or

State, "I am an Owner Surgeon" so lay down and I'll give you a vasectomy, NOT!

It's sad really, how someone that just committed to eight hours of Owner Builder training online, can now build or renovate a home and potentially sell it to an unsuspecting buyer.

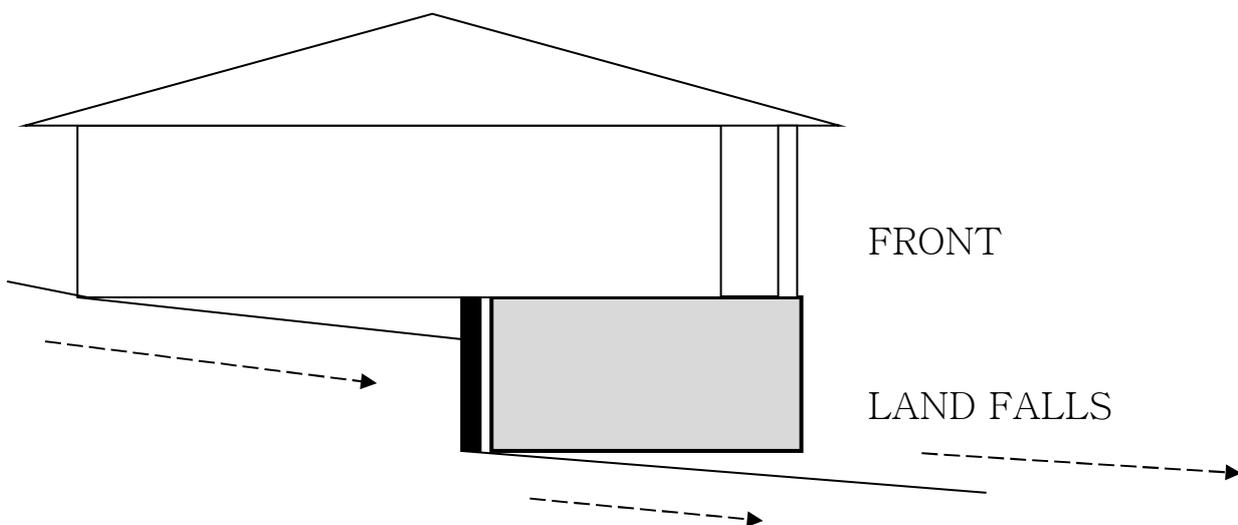
Just think about this for a minute! In the USA and Canada, they call them "Flippers". Many of the current 2019 TV reality shows, are based on US Flippers (couples who may be Real Estate Agents or maybe brother and sister).

Here is a recent real-life event between an Owner Builder and an unsuspecting buyer.

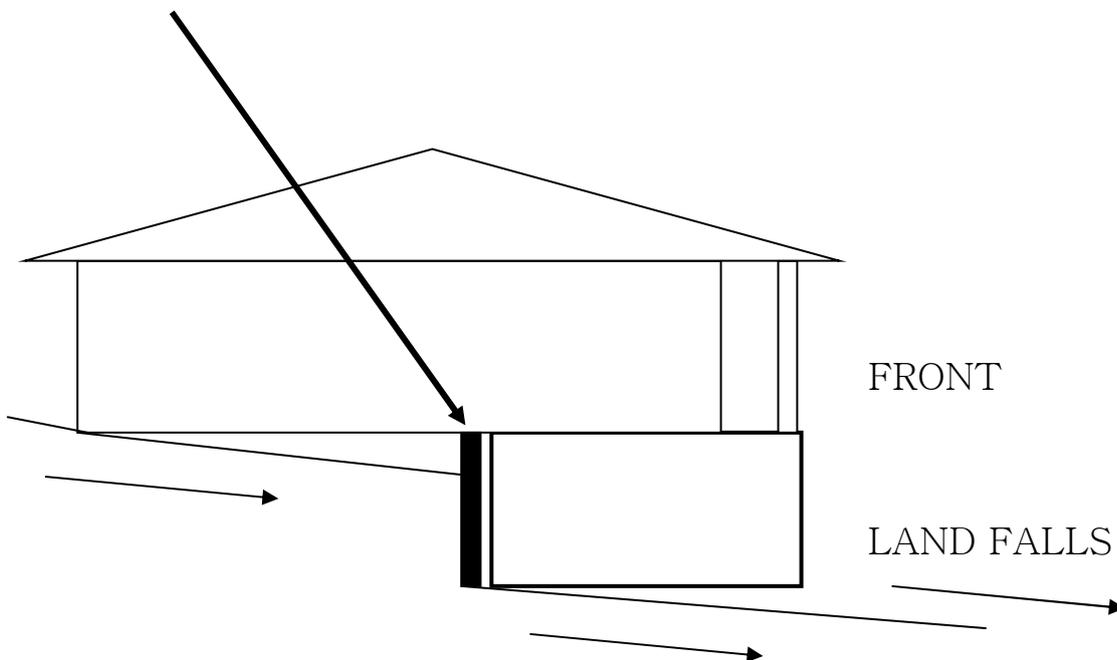
This happened previously in Victoria Australia; a husband and wife bought an old home on a sloping block. It was in the hills just outside of Melbourne.

The husband became an Owner Builder and they attempted to remodel and renovate their new home. It is an existing two-story home with a small storage area to the lower level towards the front of the home.

A rough elevation plan, (below) showing the lay of the existing land and the now affected light grey shaded lower level with a retaining wall at the rear.



The entire home was rebuilt. It consisted of new timber framing to the top and bottom floor levels and a partially new lower level concrete slab floor supporting the as shown blackened retaining wall area as also shown below in this diagram.



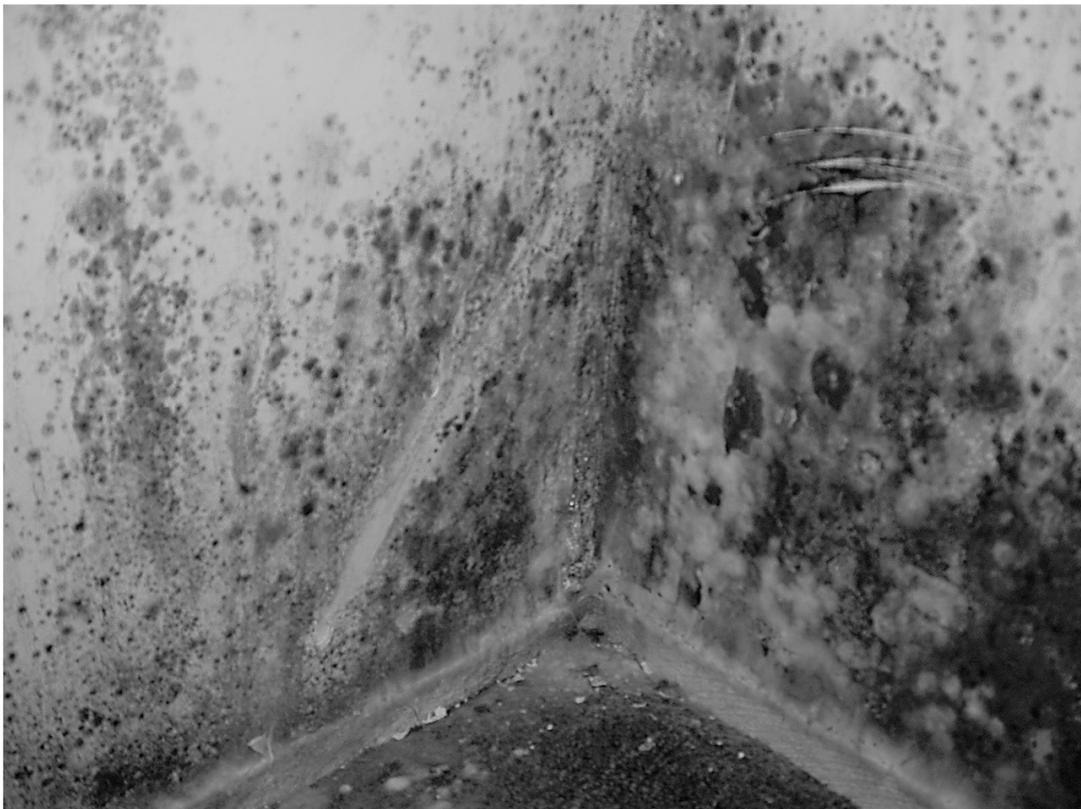
The husband and wife decided to sell this home, once the renovated works were complete, or so they thought it was complete!

The Owner Builder's renovated property was put up for auction, which is sold.

Then the new owners moved in.

Approximately six months later, the lower level living/bedroom in their new home, suffered a major flood to the lower level after a rain event.

Consequently, mould began to grow.



Example of mould inside a cupboard

The block retaining wall was not built to comply with the Engineer's planned requirements as there was NO lower level drainage or waterproofing to the retaining wall areas.

In Victoria the Victorian Building Act 1993, states an Insurance is to be in place when an Owner Builder sells the home after they renovated or re-built a home.

The new owners found out the Owner Builder allegedly did not insure the entire building, only the top section.

Yet the entire home was renovated.

Therefore, the new owners suffered now knowing there are potential costs of rectification.

This matter went to court and a decision is still pending with estimated costs to repair this owner-built property is in excess of \$350k!

The new owners were not expecting to have to find this amount of cash and nor should they!

This is an exact example of what to look out for when buying a home built or renovated by an Owner Builder, be very careful.

Your solicitor or conveyancer should assess who carried out such construction as part of their checking and assessment processes.

Independent home and property inspectors with residential construction experience and factual knowledge will also assist you in these types of cases.

Always be prudent in your own research.

Buyer beware!

# INSPECTIONS AND THEIR PURPOSE

Inspections come in many types;

1. An inspection by a PCA (Principal Certifying Authority)
2. Council,
3. Engineer's certification inspections and
4. Independent (Licensed Builder) inspections

The true purpose of these inspections is to really keep the builders and the tradies on their toes and be aware of where they may go wrong from time to time.

Some builders have been heard stating words to the effect, "just pass it and I'll fix the defects later!"

This has been going on since, God knows when, it's just the building industry's nature of the beast.

A more prudent building inspector would not tolerate any actions like this.

I have been instructed to conduct myself in this way, on occasions, only to remove these builder's immediately from our Q&A systems. There is no coming back!

Inspections are carried out at slab reinforcement stage, frame pre linings stage, waterproofing to all wet areas stage, storm water drainage stage and final stage.

In the event that, you the homeowner, are completing the external landscaping works the builder will only provide you an Interim Occupation Certificate (IOC) and the final OC will come after you complete your end of the bargain.

The bargain means you the homeowner **must** complete your own landscaping, fencing, retaining walls and alike, subject to what was acknowledged in the building contract under Exclusions.

Defect inspections and Compliance inspections are to be carried out by a competent independent inspector, but their findings must be a direct breach of a code or an Australian Standard and not purely based on an opinion only.

Should your builder tell you an estimated construction time, make sure you monitor this fact throughout the construction to ensure your moving in dates.

Builders will tell you untruths at times as to when your home will be completed, so ensure you allow at least 30 days over the estimated completion date as shown in your building contract.

## **Warranties:**

The NSW Home Building Act 1989 is clear; all works must be carried out with due care and skill.

Various other state and country warranties must be researched and known prior to commencement.

Who determines this fact after the home is completed?

An implied warranty are certain assurances that are presumed to be made on completion of a service.

Warranties terms vary and must be in written form.

## **Restitution:**

In the event some of the works are not exactly to what was agreed to, never ask for compensation, as money will not rectify the initial issue, therefore you must seek restitution to enforce your builder, to make good.

Restitution's basic meaning is to make good of situations people find themselves in.

The objective of restitution is to prevent any unjust enrichment to either party.

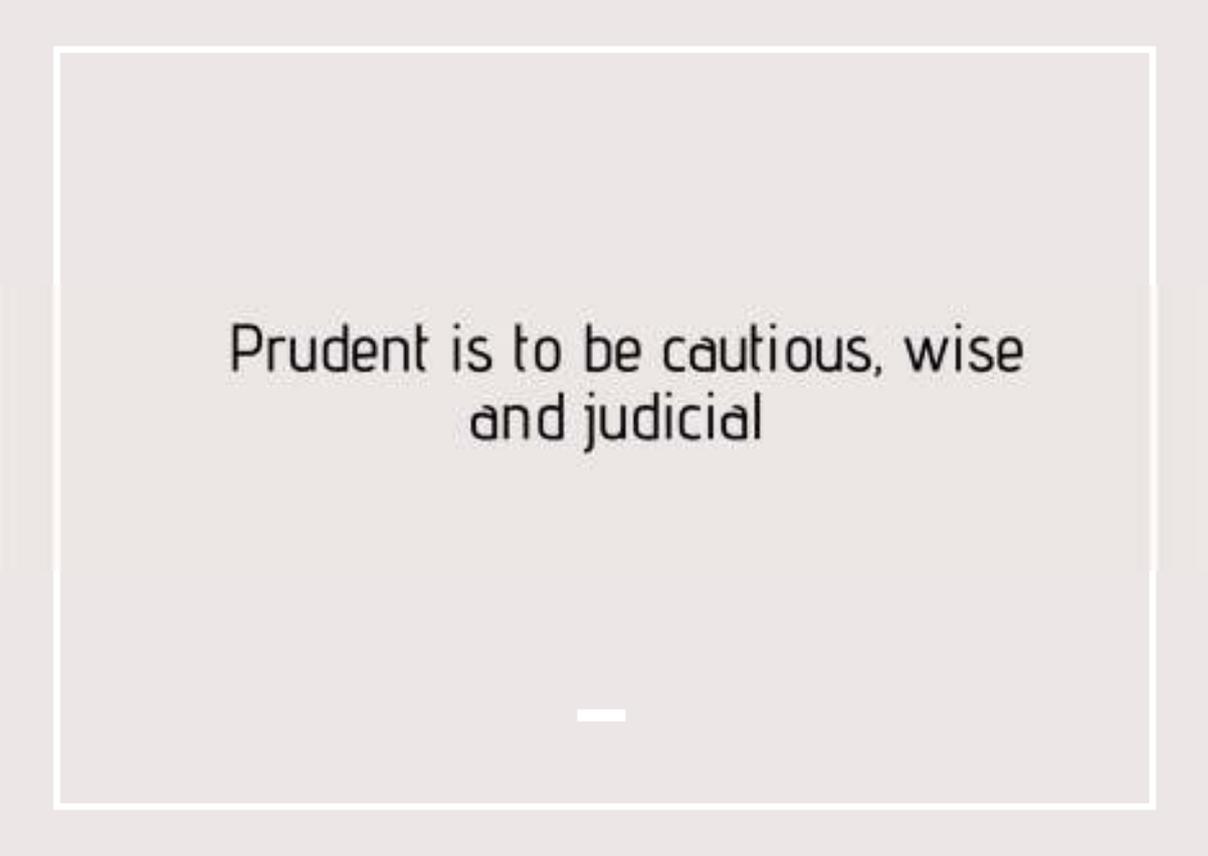
An example is where a client sought compensation (a cash grab) from a builder, but the builder said no, "I want to fix the problem" yet, the client still demanded compensation over and above the true cost of restitution.

This is simply "Unjust Enrichment".

So, don't fall for it

Booking your furniture removalists, prior to the completion of your new home will only cause unnecessary stress on you and your family's relationships. I see this all the time, which is why I am alerting you here in this book.

I know it's a must to plan and it is but be prudent in your planning.



Prudent is to be cautious, wise  
and judicial

---

Never confirm what it is you thought was going to happen until it does, its cleaner this way.

Follow what an independent inspector advises in their written reports and acknowledge in writing that you have read and understood their report, back to your inspector.

A purpose is one's rational way of thinking how to seek closure on their original thought processes of obtaining a home and property inspection regardless of its true purpose.

# IF YOU CAN'T BEAT EM' JOIN EM'

Now that is the wrong attitude to have.

The heading above, implies a “Statement of Claim” in the event disputes develop. In the event of a dispute you must follow the written dispute clause within your building contract.

You must advise the builder of the dispute in written form only. Such written advice is to be provided within the required timeframe, and all your concerns are to be provided in bullet point form.

Never allow an unqualified individual to prepare and give you a list of what they feel is defective, as this will only make the situation worse and create further frustration.

An example of how to address your builder in a disputed situation is like this:

***To ABC Homes,***

*We write to you in compliance with clause (.....) of our building contract. We have the following concerns and we request you investigate within a fair and reasonable time frame to prevent any pending construction delays.*

*We have attached an independent inspection report on what has since been discovered, or*

*We have noticed the following points in bullet point form, and await your earliest reply,*

*Yours faithfully,*

*Mr and Mrs Homeowner*

**Date: 00/month/year**

## **Tips to help through the process**

- Remain calm
- Be collective and never be aggressive towards each other
- Aggression leads to even longer delays
- Aggression also leads to tens of thousands in legal costs
- Tribunals and courts take up to 2 years to make decisions; do you want this type of delay?

No, you don't!

By joining with one's attitude, only makes the opposing individual, (the builder,) retaliate in a way of potential delays.

Best not, to join them at all. This is not the way disputes are settled!

A tribunal or a court will ask for the parties to attend conciliation or mediation to discuss all the issues, one by one, and on how it all started.

## **Mediation**

One of you will be wrong, so if the builder or the homeowners have contemporaneous notes on the build, their evidence will take precedence over the other, otherwise you are just dreaming.

In mediation you don't even need to speak if you have notes.

You will beat the other side hands down every time with such factual proof and evidence.

This next section is what has been ignored by Australian Governments on many occasions

### **REFORM IS REQUIRED IN AUSTRALIA TO THE PRE-PURCHASE HOME AND PROPERTY INSPECTION INDUSTRY IN THE FOLLOWING WAYS;**

1. A pre-purchase property inspector is one who prepares a reporting document in compliance with relevant Australian Standards, (the Standard) currently in force at the time of writing this book, AS: 4349.1-2007

2. Other trades may carry out these types of property inspections like Pest Inspectors, Termite Managers, Plumbers, Electricians, Engineers, Architect's, Private Certifiers, Building Practitioners, Carpenters, Bricklayers, Building Surveyors and alike
3. It is nowhere stated within the Australian Standards, that a pre purchase property inspector must be a Licensed Builder or similar qualified entity
4. Within the current NCC and BCA (National Construction Code and the Building Code of Australia) it provides access to an Alternative Solution provision thus; we feel the above qualifications suit this property process
5. A Pest Inspector and a Termite Manager has an entirely different complex understanding of a property inspection, therefore giving them rise to provide a very keen eye over a property under inspection
6. The Standard's provide enough clear direction on what is required and how an inspection report and agreement is to be provided and in what form
7. Many of the qualifications (trades) in section 2 above will require adequate training so the Standard is not misunderstood; thus, any agreements and the standard's purpose is clearly met

8. The goal of Housesafe Training Academy is to have accredited, qualified and even certified pre-purchase property inspectors out in the field so the consumer and even the selling agent's purposes are met in a compliant manner
9. A home inspection is generally, an organized examination or formal evaluation exercise. It involves measurements, tests and gauges applied to certain characteristics regarding an object or activity. Although the standard states a visual appraisal, this is flawed with a disbelief on many a property inspector that it's OK to just walk around and report on what you see, this is not an inspection. Further education is deployed within Housesafe in a manner that **all** property inspectors can be a part of around Australia and the world
10. In Warranty terms, all property and home inspectors firstly must have Liability Insurances in place, so the consumer is fully protected. A warranty is a written guarantee, issued to the purchaser or client promising to repair or replace elements if necessary, within a specified period, should specific elements under damage be missed by the pre purchase home and property inspector
11. The liability to the inspector should equal that term of the various state building Acts. Whereas a building contractor is liable for the specific missed elements under damage as they have a duty of care and a duty to warn the purchasers of Australian properties

12. Other reform required should be the disclosure of old termite damage known by the sellers as having been repaired or treated so the unsuspecting purchasers can make a well-informed decision prior to making the purchase

13. How much does it cost consumers due to forthcoming illegitimate pre-purchase inspections reports?

- i. Unfortunately, disputes are common within the pre-purchase inspection industries, which can often be difficult to avoid due to the uneducated inspecting entity used.
- ii. For those who are just starting out as a home and property inspector, there is very limited training available around Australia, so this intent by Housesafe Training Academy is the creation of a pathway for intended trainee entry.
- iii. This intention is to formulate training and education programs that mitigate risk, create better stealth regulation for both pending home buyers and the construction and property inspection entities.

- iv. It is essential that inspectors and their employees understand “Contract Law” to negate the risk of a dispute. Inspectors must be equipped and educated to get the job done from the start and setting documented realistic expectations for potential homebuyers. This way they would have a more prudent chance of mitigating their own risk by avoiding unexpected findings in their inspection and reporting processes. The issue here is there is not enough continuing education processes in place.
  
- v. To prove this fact, and to show the impact on a potential homebuyer, is that inspection reports are being poorly prepared and unfortunately, there is a misconception on “What a conducive condition is”.
  
- vi. A conducive condition are conditions that will cause issues sooner than you think. Many property inspectors are taken to task within the courts and tribunal systems on conditions that are obvious at a visual inspection yet are overlooked.
  
- vii. Apart from the financial cost of such disputes to both parties, other problems can also arise making the whole process a nightmare including:

- Loss of time and production
- Loss of income
- Sleep deprivation
- Anxiety
- Loss of credibility (which is hard to get back)
- Loss of family time
- Mental anguish i.e. loss of self-confidence as
- property inspector. Such intelligence cannot be overlooked.

### **Simple steps must be followed to avoid disputes:**

1. Open and honest communication: This boils down to keeping in regular contact with mentors and trainers to ensure risk is mitigated being a form Dispute Avoidance Processes, “DAP’s”
2. Put everything in writing: Inspection works under certain values need a written contract, (fee and inspection agreements) which are acknowledged in writing causing a pending dispute to be diminished.
3. Property Inspectors who have a thorough understanding of the “5 Elements of Contract Law” will be better equipped to avoid costly and emotional disputes. The Five Elements of Contract Law are: Instruction, offer, valuable consideration, acceptance and acknowledgment.
4. The intent is to evolve away from the wrath of competition within the Australian property inspection industry.

5. Accredited Inspectors are taught and assessed on how to maintain the following attributes:

- Continuing professional development (CPD)
- Knowledge on how to administer a contract or a fee and
- Inspection agreement
- Time management and balance
- Clearer goal setting
- Conflict resolution processes from ADR and DAP's
- Management abilities and assessment processes
- Performance in decision making
- Learn the 5 elements of contract law and how to apply them
- Risk mitigation by validation
- How to delegate and assess
- Applying quality assurance programs
- Limits of social media intervention
- starting from scratch
- Defining what is competent and what is not yet competent
- Deception and fraud
- Forensic extrapolation of imperfections in Australian properties
- Sociology analytics
- Dispute mitigation
- Development
- To apply prudence in their production of their reporting with personality, direction and with their character embedded

## **What is causing bad quality inspection entities?**

Not all trades need to be licensed so this can certainly affect the quality of work therefore a potential solution here is to make all property inspectors licensed in their respective inspection classes, Australia wide.

Get a contract/agreement for all inspection works to be done on a property and explain to the inspector that if no contract = no payment.

Inspection entities are taking shortcuts unsuspected to the homebuyers due to current low rates of expected fees

In NSW back in 2000, it was documented through the OFT “Office of Fair Trading”, that \$500 was a fair and reasonable fee for the services of a pre-purchase pest and or building inspection report.

In current times some inspection entities are as low as \$50!  
How alarming!

Deceitfulness is ripe in this current inspection market and in some cases, it comes from both parties, meaning the homebuyer is not truthful about what is expected and has intent of entrapment.

Some inspectors do not actually know what to look for or what to report on.

I have seen first-hand in the courtroom what happens to a property inspector that gets it wrong, they cower and end up running a mile due to their embarrassment and the inability to face up to what they have failed, to get right.

There is no reason why a pre purchase home and property inspector should not be a Licensed Builder.

Should such inspector hold accredited or certified credentials, then their ability is proven and can pursue a mitigated template in a more prudent manner.

It's expected that each construction and or home inspection entity hold certain financial ability to run a prudent business in the home and property inspection.

## **Continual Professional Development (CPD) Points**

Various organizations in Australia recognize continual professional development is industry categories. This is intended on targeting other Education sectors as well.

The construction and inspection sectors in some states only, say an individual must maintain a certain number of CPD points per annum to remain in the industry due to changes in Australian Standards and changes in insurance policies as well as being allowed to remain licensed.

CPD points and their associated certification is a bit bias by some providers and in NSW (Australia) the OFT (Office of Fair Trading) don't seek proof of having sat such development, but to only sign a declaration only upon license renewal.

A declaration is not proof, it is only an informal statement saying the individual has sat and been provided such points.

CPD, in my expert opinion, should be mandatory in all sectors of the construction and home inspection industries, so the individuals involved are made aware of their current responsibilities, not only to the Government regulations and legislation, but also to their unsuspecting clients.

## **Obtaining CBD Points**

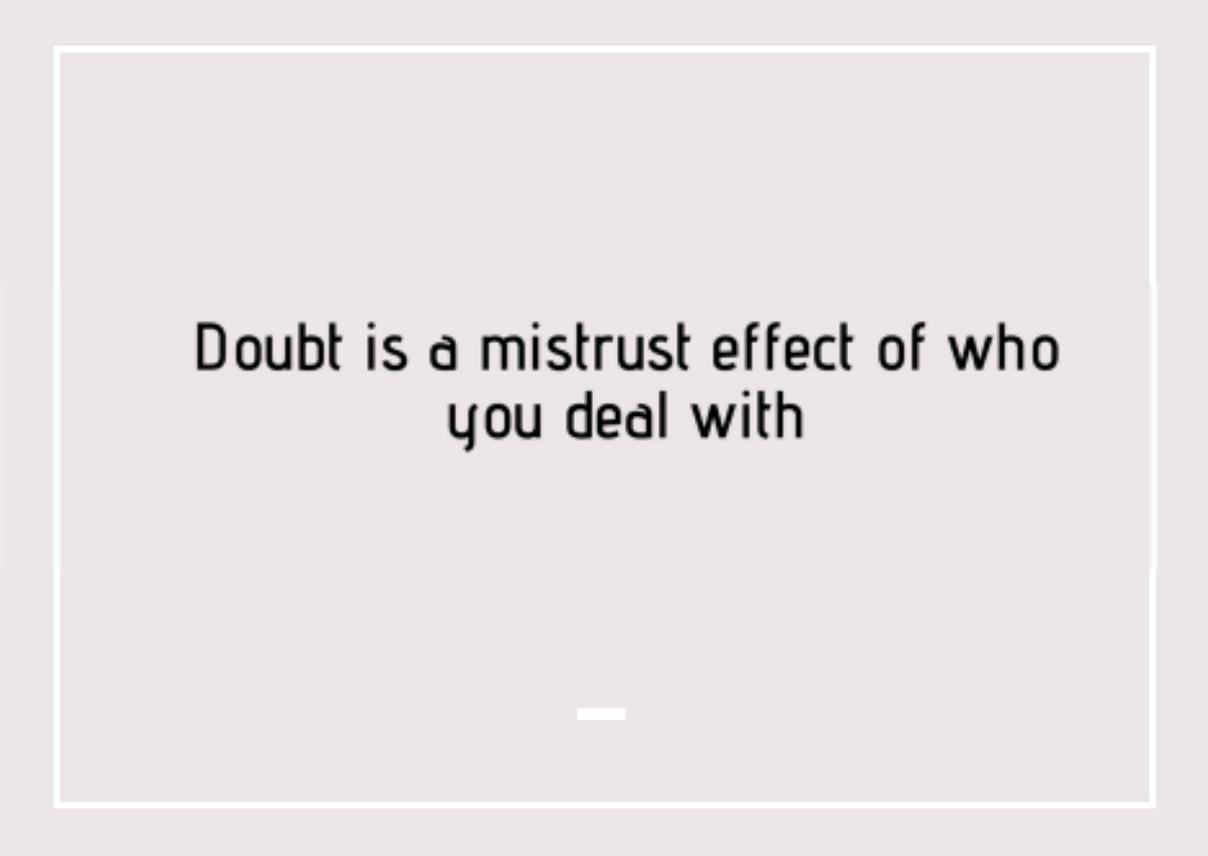
The CPD points are based on partly self-assessment of educational activity and assessment by industry associations in some states.

If you confirm these CPD's are relevant to your immediate or long-term needs in relation to your professional development and industry practise, then you can claim the activity towards satisfaction of pending CPD requirements.

CPD points not only provide recognition of one's intention, but also the consumer can rest easy knowing the building contractor or the home and property inspector is up to date with current education and standards requirements.

This is an embarrassing situation to end up in, so always remain cautious and never take each other or the situations for granted.

# THE ELIMINATION OF ALL DOUBT



Doubt is a mistrust effect of who  
you deal with

Training Methodologies

IF YOU THINK YOU CAN YOU CAN, IF YOU THINK YOU  
CAN'T YOU'RE RIGHT

In the event you doubt what is about to happen, go back through your purpose and your paperwork to ensure you have acknowledged it in a way that both parties understand, before works and services begin.

Ask yourself this, what is it you no longer understand that you did at the time of your own acknowledgment?

## What is the actual meaning of a contract?

Although the word “contract” refers often to a written document, writing down everything is not always required to create a contract.

At times an agreement is binding on both parties even given orally.

Some contracts, however, must be in writing under relevant Statutes, state by state.

In my expert opinion contracts are best in written form to allow acknowledgment to be fulfilled in the event of doubt or a dispute.

Intent of a contract is where a party’s intent is deemed to be what a reasonable person in the position of the other party would think that the first party’s objective manifestation of intent meant.

At times an offer is made in *jest*. Such (*jest*) offers, are made in which the offeree knows or should know, is made in *jest* and is not a valid offer and even in the event it is accepted, no contract is created.

An expression of interest towards an acceptance does not form a contract.



Howard Ryan instructing inspectors

The influence rule will only apply if such influence has formed a fair and reasonable solution.

Let the expert place and be responsible for the influence required here as they are specialists in that field. An acceptance once properly addressed, is admissible. A properly addressed acceptance, is another form of acknowledgement.

A contract will not be enforced unless it is also supported by consideration. Once the contract has been accepted and such consideration has been formally provided; A contract is now in place.

## **A few quick references to alerts home buyers to “What are not Defects”**

- General maintenance
- Peeling paint
- My door lock, no longer latches into the jamb striker
- Separating timber joints
- Cracking to building elements under 2mm (1/8”)
- Drummy hollow sounding floor tiles with no shattered grouting
- Out of line brick perp (vertical) joints
- Splintering timber wall and roof framing
- Leaking taps (washers split)
- Cracking to the roof tile ridge capping bedding and pointing
- Overflowing gutters in heavy rain events
- Squeaky automatic garage doors in operation
- Brick mortar feels loose when you run your finger across the initial first 1mm to 3mm (1/8”) of the mortar’s face
- Chipped bricks with the chipped areas under 8mm (3/8”)
- Chipped roof tiles on edges
- Etc.

### **NOTE**

- By adhering to this schedule your home will maintain a good standard and add to its value over time.
- The bargaining element cannot come into play after the fact that a contract is now in play.
- Pay attention to your builder’s trade qualifications and watch out for fraudulent certifications, research and you will find.

- But remember, not all are in this boat, but yours will be so endure the effort and eliminate all doubt to a claim yourself.

NO CONTRACT, NO JOB!

The answers you seek, will sort you and your thoughts out.....

THAT IS WHAT MY BUILDER DIDN'T TELL ME! 😊

# **PART THREE – REAL ESTATE AGENTS**

# **REAL ESTATE AGENT'S (CLIENTS AND VENDORS)**

Now prepare to be shown what really happens when an inspector contacts a real estate agent to arrange access to a property for an inspection.

## **A Pre-Purchase inspection.**

It must be said that only a low percentage of agents, are obligingly helpful during this process.

After 35 years as a home inspector, I have but a handful of agents who are helpful in this process to this day.

As an indication as to why I only have a few is due to agents not wanting to know about the issues that will prevent a quick sale. Obviously due to a commission loss or reduction.

I totally get that; however, this is not my purpose to assist an agent in the sale process.

The role of a home inspector is to assist the buyer to make a well-informed decision prior to the properties purchase.

Some agents ask inspectors not to tell the buyer about the non-compliant pool, the asbestos or the mould present in this property.

A pre-purchase inspector conducting a building inspection has a duty to inform a buyer, but the Australian Standard for pre purchase building inspections has exemptions advising the inspector is exempt from reporting on these items.

We are then advised to report on safety, so mould, asbestos and pool barrier non-compliance involves the safety of others, **so it must be documented.**

Agents are clearly frustrated by this fact and no matter how hard I try to explain this to an agent, I am simply wasting my time.

In today's market of Home Inspectors there is an influx of unqualified entities, franchisees and companies with volume home inspectors.

Agents love these entities, because they get it wrong.

The unqualified make statements within their reports which are inconclusive and therefore inadmissible.

It's too late in the buying process to understand what impact this will have on you as a buyer because most buyers don't read the reports until it's too late.

What happens is this:

- You look at a property,
- You like what you see on the surface,
- You put in an offer,
- The Agent pushes you to pay a larger deposit to secure the deal and prevent others from gazumping you,
- You oblige because you are under pressure,
- You then try to arrange your valuation, your inspections and other required inspections,
- The qualified inspectors are busy and can't do your inspection the same day or the next,
- So, you start searching in desperation and choose an inspector who is available now,
- His cost is between \$50 and \$300, you jump at this offer, who, I got a bargain, you exclaim!
- You receive the report,
- You start reading to find there is no substance or sense in the story you are being told,
- You put the report away,
- Pressure is mounting so most people just buy on pressure,
- You move in,
- Six weeks later you notice mould or termites,
- You panic once again,
- Do you call the inspector or the inspector's insurer?
- Decisions, decisions,
- You find out the inspector is not a builder and is not qualified,

An Australian home inspector does not have to be licensed except in QLD.

Now to cut this story short, what you should have done was ask the pre purchase home inspector for qualifications, history as being in the building industry and for testimonials, let alone a mandatory CV.

As you did not do this, reality is now setting in and you have spent and borrowed hundreds of thousands of dollars on what is formally called, “a Lemon”.

In all the years I have been working in this industry, I can never understand how it takes days and weeks for a woman to buy a dress or shoes, yet it only takes couple of days to make the biggest purchase of your life, due to the pressure put upon us all by Real Estate Agents.

The best advice I can give here is this:

- Contact a prudent and qualified home inspector and get to know them,
- Even if you are not yet buying,
- Read and research their CV and testimonials,

A good inspector will be able to answer all your questions, and some may even meet up to meet up with you for a coffee to discuss the process.

I have been doing this for years, it's my secret marketing prowess, but is no longer a secret.

A home inspector must have incentive to give you what you need.

The costs of this type of service varies from \$1,000 to \$2,000 and may include free ongoing advice via text or email for the life you live in your home, I do that for my clients.

You have been warned here, so make a decision that will benefit you, and not the Agent.

Once you have settled on the property the agent has gone, I am not.

Happy to help you anytime, day or night, anywhere in the world..... 😊

# FOR REAL ESTATE AGENTS

A real estate agent's role is not to become entwined in the inspection process other than providing access to the property for sale.

Over the years I have seen a big change in an agent's perception of a home inspector.

Agents also feel the pain of an unqualified home inspector.

Some agents even give direction to the home inspector on what they can and can't access. This is extremely adversarial in many ways.

I say, "stay out of this process".

In the USA there is a buyer's agent and a seller's agent. At times I have seen them arguing with each other.

In Western Australia the REIWA, Real Estate Institute WA, has instigated to place a disclaimer clause in their sales contracts stating a buyer cannot pull out of a sale unless the home inspector finds a major structural defect.

This cannot happen as a home inspector is not a Structural Engineer and cannot comment on a home's structural integrity.

They tried this on me a few years ago and the agent was sent away with his tale between his legs.

Your role, as the Agent is purely conduit to provide fair and reasonable access to a property when required. Never say, "Come and get the keys and open up the home yourself" as this is a path to a dispute due to you, the Agent, trying to shift liability onto a home inspector that you don't know, nor does the seller and the seller has trusted you to open up their home as and when required.

So, to all the Real Estate Institutes out there, back off, this is our domain and not yours to change the goal posts in.

# CONCLUSION STATEMENT

In conclusion I would like to thank you for taking the time to read and acknowledging this different type of book and its writings.

My dad wrote several books for an industry he loved, shearing, and what he taught at TAFE, Wool Classing. I remember the time it took dad and mum to write these books. They spent relentless hours at the dining room table and my mum kept typing away late at night and keeping us all awake with the sound of the typewriter keys.

When going through a tough period during construction, Contract Law and its 5 Elements will assist both parties every time, even when you doubt some situations that you undoubtedly found yourselves in.

Many years of building, inspecting and training has given me the will to continue being who I am.

## **For Builders and Building Inspectors**

Imagine making a telephone call to a potential client who said they needed to consult with their wife/husband before deciding?

## **Therefore;**

- Always follow up on these clients because they will be proud to advise you, they have and would like you to proceed.
- Imagine if you never made that call!
- Always push for the negative scenario and you will get people to rise to the positive.
- Simple changes made to some of your words can make all the difference in obtaining results you get from conversations
- Give the apprehensive client time to think about what you have stated and time to consider your areas of expertise so rise to every occasion and provide your CV.

# HOUSESAFE TRAINING ACADEMY

Our continuing education arm, “Housesafe Training Academy” & “Housesafe Travelling Campus” have trained and influenced over 6,000 home and property inspectors around the world since 2010.



## HOUSESAFE GLOBAL ACADEMY

We have trained approx. 2,600 trainees to date in Australia and over 3,000 spoken to in the USE, Canada, UK and New Zealand.

In carrying out my work, my objective is to determine which personal capability drove my best performance.

Over 1,500 of these trainees are successful and the rest, simply just pulled out of the industry on the grounds of it being too litigious, argumentative, full of disputes and clients who just want to make frivolous claims over nothing as well as being a timely process and or simply, just too bloody hard, in other words.

Housesafe Training Academy is now a well-respected name in the home and property inspection industry around Australia and internationally. It is privately run and delivers exclusive face to face training only around the globe on how to conduct home and property inspections on many levels and areas of specific expertise.

[www.housesafetraining.com.au](http://www.housesafetraining.com.au)

# THE HOUSESAFE FOUNDATION

The Housesafe Foundation was formed in January 2018, to assist, support and intercept issues pertaining to potential claims against builders, home and property inspectors and construction supervisors, to date we have over 100 fellow associates.

A very inexpensive annual retainer to stay in touch with an industry expert to resolve individual disputes, preceding any going to war, to which we have intercepted and resolved over 18 potential claims to date.



# **PART 4 – BONUS**

# A HOME MAINTENANCE PLAN

It is our pleasure to provide this guide to a maintenance program that is designed specially to provide information essential to maintain the wellbeing of your home.

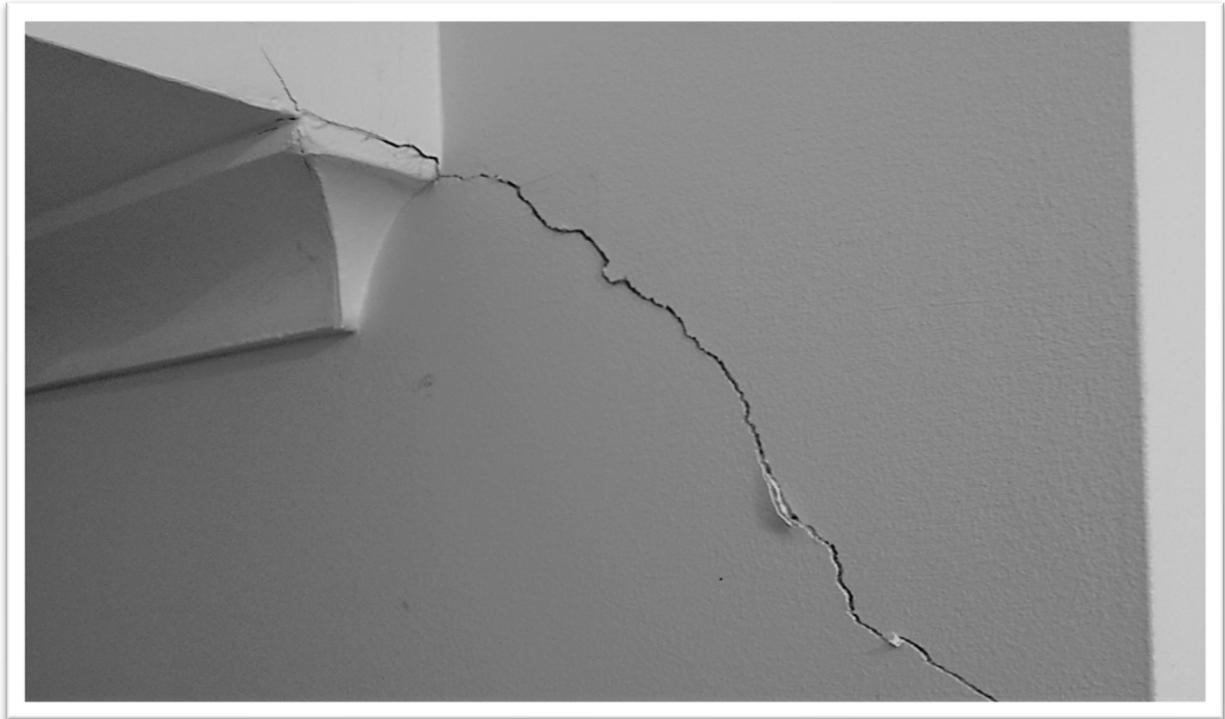
## **General Information:**

- Clean up each room as required to prevent clutter and build-up of any junk,
- Invent and form a place generally for everything,
- Do not leave food scraps in sinks or on the cook top in pots,
- Clean around the hot plate and kitchen sink edges,
- A general way of organizing your home is to maintain a 15minute a day clean-up of basic items,
- Move stored goods and any obstacles away from doorways and stairs,
- Don't leave out small objects on floor areas,
- Always turn off dishwashers, microwaves, ovens, hot plates, washing machines and dryers,
- Learn to understand what is required to operate your air conditioning units and hot water units.

## **You must carry out the following works every 3 months:**

- Clean out the gutters and flush out all the downpipe inlets,
- Ensure the property grounds surface water inlet drainage points around the dwelling's perimeter are not covered with leaves or blocked by any foreign objects,

- Walk around your home and check the (visible) exposed slab edge for any potential termite leads!
- Termite leads look like a dirt trail and are usually found in very tight and damp areas like under dripping air conditioner overflow pipes and hot water units overflow pipes,
- Open and close all internal and external doors and check for gap difference and ensure they do not stick,
- Generally, lubricate hinges and moving parts,
- Open and close all aluminium or timber windows and check for differential movement,
- Generally, lubricate hinges and or any moving parts,
- Check window glass for any cracks,
- Check windowsills internally for any water stains from external leaks,
- Inspect cornices at ceiling to wall junctions, for cracking to internal and external corners and walls above the doors and windows, see table below;
- **Cracking**: Cracking is also categorized into the following 5 categories with a description of typical damage and required repairs:



1. Hairline cracking, under 0.1mm,
2. Fine cracks that do not need repair, under 1.0mm,
3. Noticeable cracks, yet easily filled 1mm -5.0mm,
4. Cracks that can be repaired and possibly some of the wall sections will need to be replaced. Note weather tightness can be impaired, 5.0mm-15.0mm,
5. Extensive repair works required involving breaking out and replacing these sections. Walls can become out of plumb and fall and causes reduced bearing capacity, 15.0mm - 25.0mm.

NOTE: Cracks over 5mm a Structural Engineer is to Certify

- Check the base of all shower screens for water or mould stains appearing,
- Check the adjacent walls of all showers for water or mould (black spotting) staining,

- Inspect the ground floor laundry tub, vanity and kitchen drainpipe penetrations at their bottom shelves for any termite leads,
- Inspect the drainage, under sinks “P” traps for leaks,
- Check for leaks in gutters and downpipe joints,
- Look at all downpipe into their base stormwater connections to see if these connections are coming away from the PVC / clay stormwater pipes,
- Check all floor tiles for any cracking and drummy sounding,
- Clean the air conditioner units return air filters,
- Ensure the safe operation of all smoke alarms and replace batteries as required,
- Replace vacuum cleaner bags and clean the unit’s filters,
- Clean clothes dryer filters,
- Check the operation of the pressure relief valve on your hot water unit by running it for approx. 5 seconds and ensure it shuts off effectively and is not leaking, if so, seek Plumbers advice
- Do not store and timbers or masonry products against the exterior of your home as this is a conducive condition to possible termite attack,
- Assess surface drainage run off and monitor that no waters are ponding next to the dwelling as wet foundations cause heaving upwards and dry foundations shrink and crack causing settlement to the dwelling and the formation of cracking internally and externally

## **You must carry out the following works every 12 months:**

- Inspect external painting for any areas of flaking painted surfaces,
- Inspect internal painting for any areas of flaking or stained painted surfaces,
- Inspect walls and ceilings for any cracking and refer the cracking categories,
- Inspect side gates for binding against the external walls of the new home,
- Check roof tile ridge bedding and pointing for cracking and visible movement,
- Check the operation of all exhaust fans and clean the vented cover and the inside of the stained roof loft areas,
- Clean the kitchen range hood filters,
- Clean your clothes dryer filter,
- Replace tap washers to all taps including the exterior taps,
- Replace your water filter, filter cartridges,
- Replace damaged flyscreen mesh,
- Replace the silicone seal to all the shower tap flanges,
- Replace the perimeters sealer to the vanity tops and kitchen bench tops,
- Clean gas heating filter system,
- Have an annual general pest spray for spiders and cockroaches and an annual termite inspection as required under the Warranty of the Termite Treatment in place. Reviewed as per the warranty notice within your meter box lid, (If there is no treatment notice in your electrical meter box then there is no treatment in place!)
- Steam clean carpets and floor tiles approx. every three years,
- Clean all wall and floor tile grouting,

- Check all toilets that their flushing operation is as intended,
- Check WC cistern return PVC pipe seals are not leaking,

# THANK YOU TO

Diane and all our family

## ASHI & CAHPI Conferences



I retired playing baseball in 2014 at 60 years old.

There are three things in baseball, winning, losing and rained out days. (Oh NO! what else is there to do)

On this day, IN 2019, I was giving a unique opportunity by Mike Burt, in Syracuse NY State to take me to Sharon Springs and to have Brett Phelps's dad, take me to the baseball "Hall of Fame" WOW!

## Petey (Robert) Phelps

Petey (Robert) Phelps is 81 years old and was telling me stories of the times he met with the likes of Mickey Mantle, Ted Williams, Tommy Lasorda, Nolan Ryan, George Brett, Ozzie Smith and many others in his time involved in USA Baseball, thanks mate 😊



Petey said he bought an old wooden baseball bat at a yard sale many years back for 50c and when he got it home, he cleaned it up and realised this bat belonged to #42 Jackie Robinson.... WOW!

In November 2019 in Las Vegas at MGM, I had the opportunity to actually meet Pete Rose of the Philadelphia Phillis. He actually listened to what I have to say and what I had done in my time playing and running a baseball club.

## **Training in my Industry:**

I started Training my Industry as an Australian qualified TAE Trainer in 2010 at 56 years old and I am still training worldwide now to this day, as I am writing this book sitting in a B&B in Sharon Springs NY State and in the New Yorker Hotel New York USA on a training experience.

The worlds building contractors, house flippers, home and property inspectors are different and diverse in so many ways, from Australia to New Zealand, UK, USA, Japan and to Canada.

WHAT IS A SUCCESSFUL BUSINESS? IT'S A PLACE THAT  
KNOWS YOUR NAME

One thing I learnt though, was nobody knew about “Contract Law,” and how it can save their butts, which thankfully has made me successful in my training delivery to this day.

Training methodologies of “Perception” and many of the Housesafe Trainees will always remember this fact on how a car type always perceived their opinion in an instant.

YOU KNOW WHEN YOUR BRAND HAS MADE IT, BECAUSE  
IT ENTERS INTO COMMON LANGUAGE OF OTHERS

Thank you all for this wonderful opportunity.



EVERYTHING WILL BE OK IN THE END,  
IF IT'S NOT OK, IT'S NOT THE END.



# TESTIMONIALS

Over the years I have collected various testimonials from building inspectors who I have trained. Names have been omitted for privacy reasons.

*I have known and worked with Howard Ryan professionally for the last four years.*

*Howard is of exemplary character and his technical instincts and knowledge are unparalleled.*

*What distinguishes Howard though is his tireless work to improve standards (in inspections, report writing and communication) and therefore outcomes in the pre purchase inspection industry. He is very generous with his time, to both those who are starting out and those who encounter problems along the way.*

*Where most others are simply interested in being good at what they do, Howard seeks to bring others along on that journey. With the present unregulated state of the industry, Howard is a light in the darkness.*

*I commend Howard to you.*

CJ – Lawyer

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*Never have I known Howard Ryan to speak or act in a manner that was not in the best interest of the public or dedicated to the improvement of the building industry. Contrarily, he has always been an advocate with a higher social and moral purpose to identify areas of concern; with his specialized knowledge and prompt those in a position to make necessary changes, to indeed do so.*

*Rarely would I speak for another person, however, in this instance, I can wholeheartedly vouch to Howard's integrity and honour - he is an exemplary leader for our industry, and it has been an asset and privilege to know him these past nine years.*

*I welcome anyone to reach out to me, should they wish.*

**CH – Building Inspector**

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*I have known Howard Ryan for nearly 20 years, since the year 2000.*

*In that time his roles have evolved considerably as would be expected.*

*My relationship initially was with assisting Howard as a builder.*

*It was obvious from the onset that the standard that Howard set was that of an experience builder that simply wanted to perform his task correctly and had his own high standard.*

*Looking back, this appeared to have evolved quickly, whereby Howard began providing pre purchase inspections, building reports as well as training for others such as builders and pre purchase inspectors.*

*My understanding is that the Inspections, reports and client base has transitioned further to include reports on defective buildings and works as well as advising established builders on their building processes to assist with their production quality and systems.*

*Few if any builders ask me the questions with a technical awareness that Howard does.*

*His expertise evolved to where he is currently providing clients who are buying and/or building homes how to, simply, get it right.*

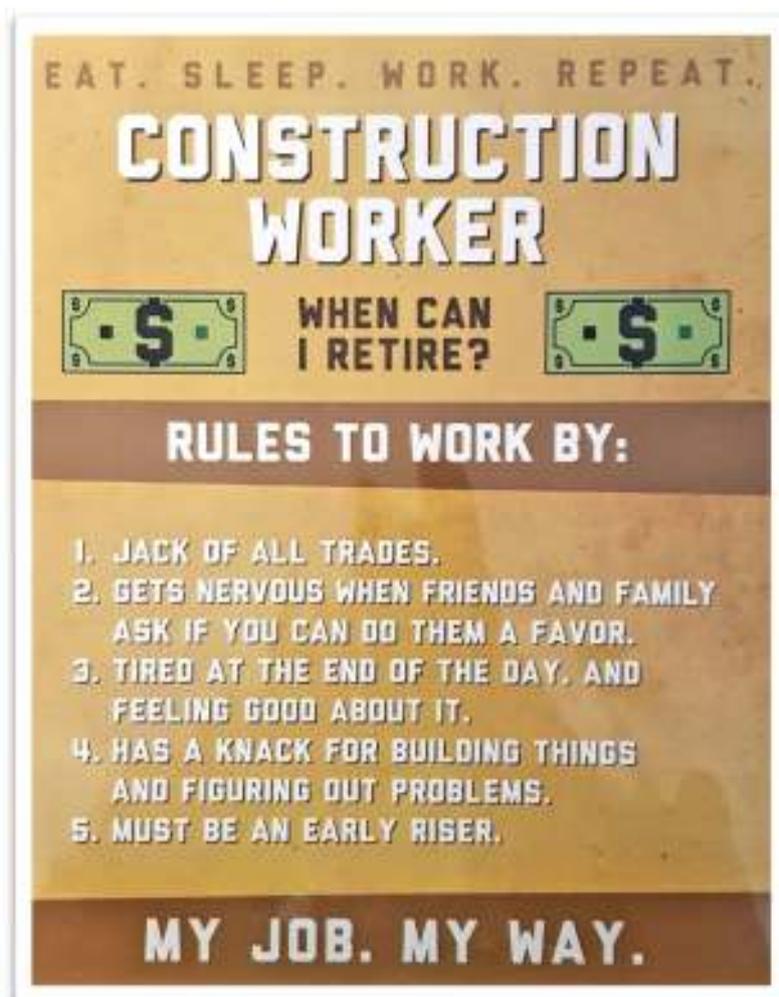
*Amongst many of his objectives, he focusses on the advantages of:*

- Keeping it simple*
- Getting the job done once and done right*

- *Following the correct procedures*
- *Avoiding obvious problems along the way*
- *Clarifying the responsibilities of relevant parties*
- *Avoiding conflicts and misunderstandings*
- *All involved parties benefiting from the relationship and outcome*

## **FS – Structural Engineer**

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20<sup>th</sup> November 2019

To Whom It May Concern

Howard Ryan has been known to me for many years and has been a part of the residential building industry for over 40 years.

I have experienced Howard's knowledge and experience on many occasions in the use of compliance, expert reports, Scott schedules, frame and final handover inspections.

On occasions I have made a telephone call to gain directions and advice on pending matters on how best to proceed with issues arising in the residential construction industry.

My many years in the industry across four states of Australia has heighten the need for the use of people like Howard, who brings a clear knowledge through standards and compliance, as well a clear head in times where a calm sensible direction is required.

Howard only brings a positive good balance to an industry short on quality trades and short on company senior management, on how to ensure satisfactory results for home owners and building companies ensuring both parties are satisfied.

There is a bigger than ever need for the Howard's of the residential building industry to be used in a more formal capacity through intervention into troubled building companies, through direction of authorities.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Eddie Stothard", with a long horizontal flourish extending to the right.

Eddie Stothard

General Manager

Wincrest Group Pty Ltd

**Olinda, Vic, 3788 Australia**  
**Nov 2019**

To Whom it May Concern,

My wife and I met Howard Ryan after our story appeared on A Current Affair, he saw our devastation that resulted from defective building practices and reached out to us via Facebook.

We first made contact in April this year and since then Howard has attended our property, assisted me at VCAT for the compulsory conference, inspected the property and provided an inspection report for the VCAT hearing next year.

He has done all of this at no cost to us and has never asked for anything in return, except, that we are successful and made whole again.

Howard is truly an exception in an industry where innocent people are destroyed financially and psychologically by unscrupulous builders and surveyors. I have many years working with people from all walks of life and believe I am a good judge of character and do not hesitate to tell anyone what an amazing man Howard is.

Howard brings integrity, honesty, a wealth of experience and a heartfelt desire to pass on knowledge through his teaching and networking, all this while fighting for a fair and just system for all.

He does this selflessly and with infectious enthusiasm and we are blessed to know this man.

He is a humble man with a heart of gold, and we are stronger with him on our side and always look forward to seeing him as he has a way of lifting our spirits and helping us to be strong at such a sad time.

We encourage Howard to show this letter to as many people as possible and hope, if you are reading this, you realise you have met a really great guy, thank you Howard.

Sincerely,

*K7Stone*

14/10/2018

HS/290

FRI 13th +  
SAT 14th / APRIL 2018

AGE  
NO'S

AP1B

10731 - ADAM SPENCER - <sup>QUALIFIED</sup> <sup>EXPERIENCE</sup> <sup>IT</sup> <sup>"KEY CONC"</sup>  
FRANCH (2) (2) (1)

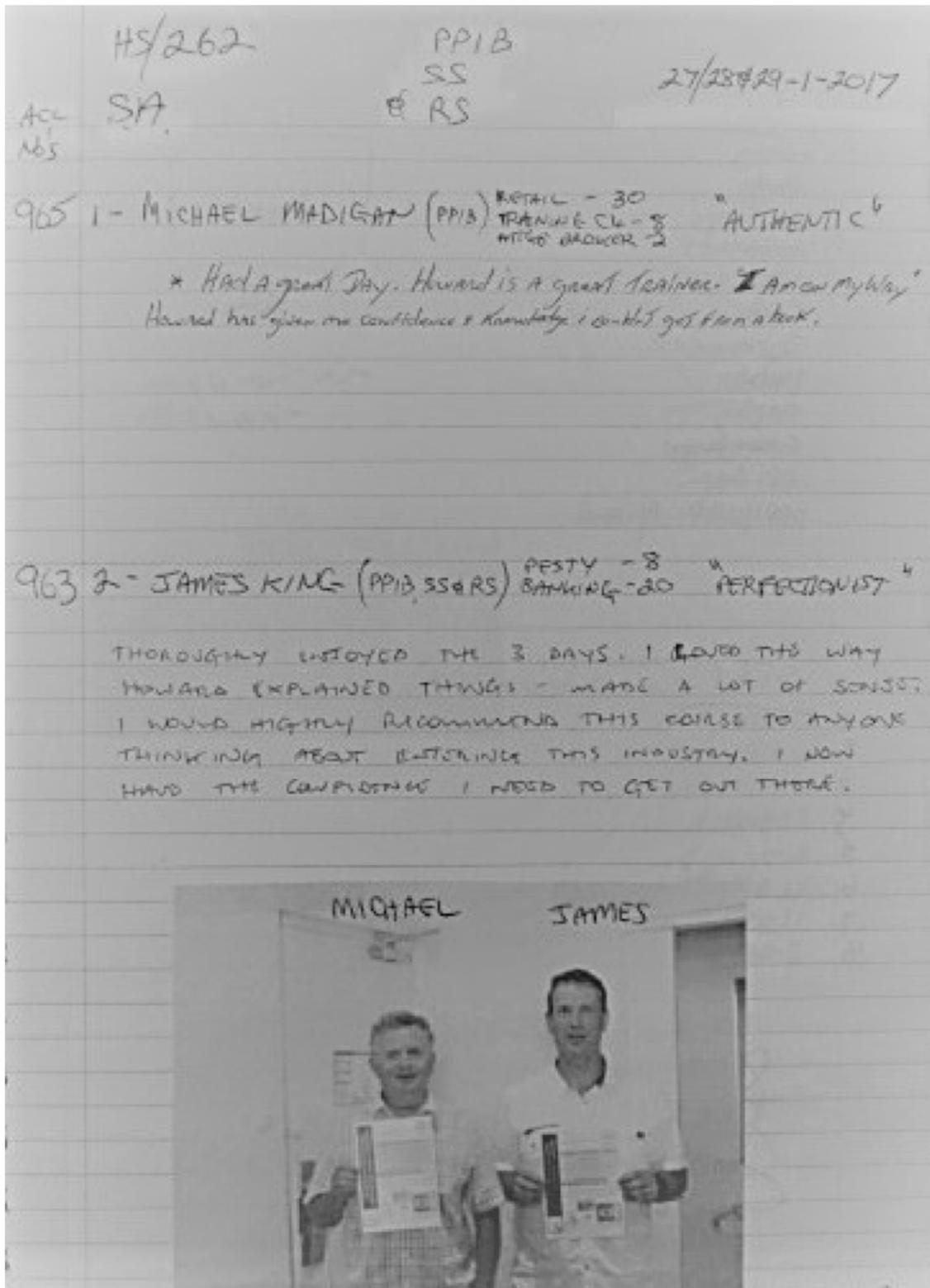
A fantastic course, very informative and I have learnt a lot of information that will be incredibly valuable to me and my career. The short cut sections were the critical learn the acknowledgment of understanding, defining a detail and the 5 losses and writing down the purpose. Great training, interesting and engaging. Thank you Howard.

10742 - CORNELIUS ISAKS - <sup>Anti-Corruption</sup> <sup>HELPFUL</sup>  
CH/111(12) 11/11/12

Very well presented, I am blown away for the amount and depth of knowledge that Howard presented. I am going away excited and confident that any inspection is a no-brainer with the knowledge that is imparted in me. When I grow up I will be like Howard.



NEW ZEALAND



SOUTH AUSTRALIA

#/S 122 / SYD  
SPS 1

5/3/15

TEMP  
LIC  
NCS

681 1- JOSE CODINA - / no no no

The Course was very informative. Aspects were clearly explained in plain English. Presenter was very interesting.

682 2- DARIO CODINA - / no no no (short)

The course was very informative and a lot of information on managerial safety compliance.

683 3- JOSH BROOK - / no no no (writing)

have attended Harold's course before & always found useful atmosphere.

684 4- JOSHUA PATTERSON - / no no no (short)

Really course with Harold. Very well presented & very detailed notes & system/industry material will be in other course & relevant to others.



SYDNEY - NSW

11/233      VIC      PII (19881)      PII (19881) Sat 20th

837 1- BIRENDA BHANDARI (PII) (VIC) / PII (19881) Sat 20th  
 It was great to attend the course.  
 I have learn alot, and happy to attend.  
 more course in near future.  
 → now i am very confident

838 2- MICHAEL ELLIS (PII) (VIC) / PII (19881) Sat 20th  
 Excellent, most honest person i speak to.  
 will make a lot from this course and support.

839 3- AARON DALTON (PII) (VIC) / PII (19881) Sat 20th  
 Excellent, learnt alot and still abt to learn.

MICHAEL      BIRENDA      AARON





VICTORIA

In a world  
where  
you can be  
anything...

NOTES:


NOTES:


NOTES:


NOTES:






“A truly memorable time writing this book whilst in New York City attending industry meetings and symposiums.”

– Howard Ryan

Corporate greed and the slashing of sub-contracting tradie's costs, has caused a major issue in residential construction with the finishing trades and the proposed warranty expectations, which is leading them all to tribunal and court claims more so than ever before.

By not understanding and/or acknowledging the wording in your contracts and scopes of works, will create unrealistic expectations and disputes where both parties make fools of themselves.

Construction and Inspection planning is crucial to a successful and dispute free business.

An example is, we don't tell a car manufacturer how to build their cars, they just sell them in their car yards so why should a consumer tell a builder or a home inspector, how to run their business?

Forums and reality TV programmes are full of inconclusive statements based on what is being displayed, and the viewers are assuming this is the way it is to be done.

