

Before the Building Practitioners Board

	BPB Complaint No. 26708
Licensed Building Practitioner:	Fujiang Wu (the Respondent)
Licence Number:	BP 130605
Licence(s) Held:	Roofing – Roof Membrane, Site AoP 1

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

Complaint or Board Inquiry:	Board Inquiry
Hearing Type:	On the Papers
Draft Decision Date:	23 July 2025
Final Decision Date:	22 September 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr G Anderson, LBP, Carpentry and Site AoP 2
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Disciplinary Finding:

The Respondent **has not** committed a disciplinary offence.

Contents

Summary of the Board's Decision	2
The Charges	2
Draft Decision Process	3
Evidence	3
Further Evidence and Submissions Received	3
Failure to Provide a Record of Work	3
Did the Respondent carry out or supervise restricted building work.....	4
Was the restricted building work complete	4
Has the Respondent provided a record of work.....	4
Was there a good reason	4
Board's Decision	5

Summary of the Board's Decision

- [1] The Respondent has not committed a disciplinary offence. Whilst a previous Board decision had determined that tanking is restricted building work, it has not been communicated to the industry by the Ministry of Business Innovation and Employment (MBIE). As such, the Board decided that whilst tanking is restricted building work, the Respondent had a good reason for not providing a record of work, which was that he had relied on the prevailing industry position that tanking is not restricted building work.

The Charges

- [2] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. The Board sets the charges and decides what evidence is required.¹
- [3] In this matter, the disciplinary charges the Board resolved to further investigate² were that the Respondent may, in relation to building work at [OMITTED], Auckland, have failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out or supervise, or has carried out or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) of the Act contrary to section 317(1)(da)(ii) of the Act.

¹ Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

² The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

Draft Decision Process

- [4] The Board's jurisdiction is that of an inquiry. Matters are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers necessary prior to it making a decision.
- [5] Ordinarily, the Board makes a decision after holding a hearing.³ The Board may, however, depart from its normal procedures if it considers doing so would achieve the purposes of the Act, and it is not contrary to the interests of natural justice to do so.⁴
- [6] In this instance, the Board decided that a formal hearing was not necessary. The Board considered that there was sufficient evidence before it to allow it to make a decision on the papers. It noted, however, that there may have been further evidence in relation to the matter that the Board was not aware of. To that end, it issued a Draft Decision. The Respondent was provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. The Board further noted that if the Respondent requested an in-person hearing, then the Draft Decision would be set aside, and a hearing would be scheduled.

Evidence

- [7] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act, the Board has relaxed rules of evidence, which allow it to receive evidence that may not be admissible in a court of law.

Further Evidence and Submissions Received

- [8] Following the Board issuing a Draft Decision, it received a submission from the Respondent, which it took into account when making this Final Decision.

Failure to Provide a Record of Work

- [9] A Licensed Building Practitioner must provide a record of work for any restricted building work that they have carried out or supervised to the owner and the Territorial Authority on completion of their restricted building work.⁶
- [10] There is a statutory requirement under section 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the

³ Regulation 10 of the Complaints Regulations.

⁴ Under Clause 27 of Schedule 3 the Board may regulate its own procedure and it has summary jurisdiction, which allows for a degree of flexibility in how it deals with matters: *Castles v Standards Committee No. 1* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

⁶ Section 88(1) of the Act.

territorial authority on completion of restricted building work⁷ unless there is a good reason for it not to be provided.⁸

Did the Respondent carry out or supervise restricted building work

- [11] The Respondent was engaged to carry out and/or supervise building work on an alteration to a residential dwelling under a building consent. His work included work on the external moisture management system of a residential dwelling, which the Board decided in a previous matter was type of restricted building work.⁹

Was the restricted building work complete

- [12] The file showed that on 9 June 2023, BCG Construction Limited, the main contractor for the build, issued a Notice of Practical Completion stipulating that, other than minor defects and omissions, the build was complete. On that basis, the Board has determined that 9 June 2023 was the completion date and the date on which the Respondent's record of work had to be provided to the owner and the Territorial Authority.

Has the Respondent provided a record of work

- [13] The Respondent did not file a response to the inquiry. Rather, the Board received a submission from BCG. The Respondent advised that BCG was authorised to respond on his behalf. The BCG submission did not specifically deal with the Respondent's conduct, but a record of work from the Respondent dated 3 February 2025 was provided.
- [14] Given that the restricted building work was completed in June 2023, the Respondent's record of work was not provided on completion or soon thereafter as per the requirements of section 88(1) of the Act.

Was there a good reason

- [15] As noted, in a previous matter,¹⁰ the Board decided that external tanking was a form of restricted building work. That decision was made in 2022. MBIE was instructed to inform the industry, but has not. Given the industry has not been informed, and the prevailing understanding is that external tanking is not restricted building work, the Board has decided that there was a good reason for the failure to provide a record of work.

⁷ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

⁸ Section 317(1)(da)(ii) of the Act

⁹ Clause 5 of the Building (Definition of Restricted Building Work) Order 2011

¹⁰ *Freddy Alarcon* [2022] BPB 25660

Board's Decision

- [16] The Respondent had a good reason for a failure to provide a record of work on completion of restricted building work.

Signed and dated this 30th day of September 2025.

A handwritten signature in black ink, appearing to be 'M Orange', with a long horizontal stroke extending to the right.

Mr M Orange
Presiding Member