

## Before the Building Practitioners Board

	BPB Complaint No. CB25601
Licensed Building Practitioner:	Jeffrey Arthur (the Respondent)
Licence Number:	BP 106638
Licence(s) Held:	Carpentry

---

### 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	Complaint
Hearing Location	Auckland
Hearing Type:	In Person
Hearing Date:	2 February 2021
Decision Date:	3 March 2021

#### Board Members Present:

Mr C Preston, Chair (Presiding)  
Mr D Fabish, LBP, Carpentry and Site AOP 2  
Mr R Dunlop, Retired Professional Engineer  
Mr B Monteith, LBP, Carpentry and Site AOP 2

#### 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** committed disciplinary offences under sections 317(1)(b) and 317(1)(d) of the Act.

## Contents

<b>Summary of the Board’s Decision</b> .....	2
<b>The Charges</b> .....	2
<b>Function of Disciplinary Action</b> .....	3
<b>Inquiry Process</b> .....	3
<b>Evidence</b> .....	4
<b>Board’s Conclusion and Reasoning</b> .....	5
Negligence.....	6
Contrary to a Building Consent.....	9
<b>Penalty, Costs and Publication</b> .....	10
Penalty .....	10
Costs.....	11
Publication .....	11
<b>Section 318 Order</b> .....	12
<b>Submissions on Penalty, Costs and Publication</b> .....	12
<b>Right of Appeal</b> .....	13

### Summary of the Board’s Decision

[1] The Respondent negligently supervised building work and building work that was contrary to a building consent. He is censured and ordered to pay costs of \$3,500.

### The Charges

[2] The hearing resulted from a complaint about the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations<sup>1</sup> to hold a hearing in relation to building work at [Omitted]. The alleged disciplinary offences the Board resolved to investigate were that the Respondent:

- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); and
- (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act).

[3] The Respondent was advised that the hearing would focus on the building work and supervision issues on pages 26 – 28 of the files that relate to the Respondent. Issues not related to the Respondent or which are not building work would not be further investigated.

---

<sup>1</sup> The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

### Function of Disciplinary Action

[4] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*<sup>2</sup> and in New Zealand in *Dentice v Valuers Registration Board*<sup>3</sup>.

[5] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*,<sup>4</sup> Collins J. noted that:

*“... the disciplinary process does not exist to appease those who are dissatisfied ... . The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”*

[6] In a similar vein, the Board’s investigation and hearing process is not designed to address every issue that is raised in a complaint or by a complainant. The disciplinary scheme under the Act and Complaint’s Regulations focuses on serious conduct that warrants investigation and, if upheld, disciplinary action. Focusing on serious conduct is consistent with decisions made in the New Zealand courts in relation to the conduct of licensed persons<sup>5</sup>:

*... the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse.*

[7] Finally, the Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. Those grounds do not include contractual breaches other than when the conduct reaches the high threshold for consideration under section 317(1)(i) of the Act, which deals with disrepute.

[8] The above commentary on the limitations of the disciplinary process is important to note as, on the basis of it, the Board’s inquiries, and this decision, focus on and deal with the serious conduct complained about.

### Inquiry Process

[9] The investigation and hearing procedure under the Act and Complaints Regulations is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. Rather the Board sets the charges, and it decides what evidence is

---

<sup>2</sup> *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

<sup>3</sup> [1992] 1 NZLR 720 at p 724

<sup>4</sup> [2016] HZHC 2276 at para 164

<sup>5</sup> *Pillai v Messiter (No 2)* (1989) 16 NSWLR 197 (A) at 200

required at a hearing to assist it in its investigations. In this respect, the Board reviews the available evidence when considering the Registrar's Report and determines the witnesses that it believes will assist at a hearing. The hearing itself is not a review of all of the available evidence. Rather it is an opportunity for the Board to seek clarification and explore certain aspects of the charges in greater depth.

- [10] Whilst a complainant may not be required to give evidence at a hearing, they are welcome to attend and, if a complainant does attend, the Board provides them with an opportunity to participate in the proceedings.

### **Evidence**

- [11] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>6</sup>. Under section 322 of the Act, the Board has relaxed rules of evidence that allow it to receive evidence that may not be admissible in a court of law.

- [12] The procedure the Board uses is inquisitorial, not adversarial. The Board examines the documentary evidence available to it prior to the hearing. The hearing is an opportunity for the Board, as the inquirer and decision-maker, to call and question witnesses to further investigate aspects of the evidence and to take further evidence from key witnesses. The hearing is not a review of all of the available evidence.

- [13] In addition to the documentary evidence before the Board heard evidence at the hearing from:

Jeffrey Arthur	Respondent
[Omitted]	Complainant
[Omitted]	Complainant
[Omitted]	Witness by Phone
[Omitted]	Witness for the Complainant

- [14] During the hearing, the Board took evidence and asked questions in respect to what it considered to be the more significant items of concern. These were issues with structural steel, skylights, weatherboard installation, a garage parapet, a concrete rebate, and a concrete nib wall.

- [15] The Respondent gave evidence that he supervised the work.

- [16] The Respondent confirmed that he had measured the steel beam that was allegedly cut too short. He disputed that the beam was 250mm short, as claimed by the Complainant, but did accept that it was 65mm short. He did not accept that this resulted in a significant reduction (250mm) in the bedroom sizes. The Respondent confirmed that he had not used the gridlines on the plans to measure the steel

---

<sup>6</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

beam. He stated that, due to the nature of the work and the site, he undertook in-situ site measurements.

- [17] [Omitted] gave evidence that, in his opinion, the skylights barge flashings did not overlap as required and were not to code (Building Code) in that the flashings did not extend to cover two ribs. He also claimed that the skylights should have had what is known as a "Cricket" flashing, given it was a flat 8-degree pitched roof. The Respondent said that a 'Cricket' flashing was not shown on the plans.
- [18] The Respondent gave evidence that, in his view, the additional skylight added was a minor variation, that he was putting the paperwork together for presentation to the Council at the end of the job, but that his contract was terminated before this was done. The Respondent claimed that he had talked to the engineer, but not to the designer or the Council, about the change.
- [19] In respect to the weatherboards being out of level by 20 to 30 mm, the Complainant accepted that this would happen due to the renovation nature of the build but stated that he had given clear instructions that the placement of the weatherboards was to start at a point that allowed for the best aesthetic result. The Complainant's position was that this was not done and that the out of level board finished in a very noticeable position.
- [20] The Respondent accepted that the cladding was not started at the correct point and that the job could have been done better. The Respondent also accepted, with respect to the cladding, that some of it had been incorrectly nailed in that it was pinned through both of the lapped weatherboards and not the top one only as shown in the consented specifications. He accepted they should have been nailed off correctly.
- [21] The Respondent accepted that the Parapet on the new garage needed to be fixed. He stated it was in the process of being corrected but that the work had not been completed as the Respondent was asked to leave the site.
- [22] The Respondent accepted that the rebate in the concrete was too small for the doors and was made flat rather than at an angle.
- [23] The Respondent accepted that the nib wall was built 190mm thick when the plans called for 90mm.

#### **Board's Conclusion and Reasoning**

- [24] The Board has decided that the Respondent **has**:
- (a) carried out or supervised building work or building inspection work in a negligent manner (s 317(1)(b) of the Act); and
  - (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act)
- and **should** be disciplined.

## Negligence

- [25] Negligence is the departure by a licensed building practitioner, whilst carrying out or supervising building work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*<sup>7</sup> test of negligence which has been adopted by the New Zealand Courts<sup>8</sup>.
- [26] The New Zealand Courts have stated that an assessment of negligence in a disciplinary context is a two-stage test<sup>9</sup>. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.
- [27] When considering what an acceptable standard is, the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act<sup>10</sup>. The test is an objective one, and in this respect, it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner<sup>11</sup>.
- [28] The Board notes that the purposes of the Act are:

### **3 Purposes**

*This Act has the following purposes:*

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*
- (i) *people who use buildings can do so safely and without endangering their health; and*
  - (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
  - (iii) *people who use a building can escape from the building if it is on fire; and*
  - (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*

---

<sup>7</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>8</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>9</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>10</sup> *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

<sup>11</sup> *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

(b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

[29] The Board also notes, as regards acceptable standards, that all building work must comply with the Building Code<sup>12</sup> and be carried out in accordance with a building consent<sup>13</sup>. As such, when considering what is and is not an acceptable standard, the Building Code and any building consent issued must be taken into account.

[30] Turning to seriousness in *Collie v Nursing Council of New Zealand*<sup>14</sup>, the Court's noted, as regards the threshold for disciplinary matters, that:

*[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.*

[31] Notwithstanding the disagreement about the steel beam size, the Respondent did not get the beam size correct. It was a critical building element, and care should have been taken to make sure it was measured correctly. Whether it was 65mm or 250mm short, such an error can have significant consequences. On this occasion, the Board accepts the evidence of the Complainants that this error resulted in the bedrooms being smaller than they should have been.

[32] In the case of the skylights, the Board notes that the consented plans did not specify a Cricket flashing. However, the workmanship and installation did fall below an acceptable standard.

[33] The nailing of the weatherboards was incorrect and did not meet the required standards. The weatherboards should not have been 20 to 30 mm out of level on each side of the window.

[34] In the case of the many other minor items that formed part of the complaint, it is not unusual to see minor issues arise during a build, some of which maybe seem as significant but do fall inside the accepted industry tolerances. Some would have formed a snag list that would, most likely, have been fixed closer to the end of the job if the Respondent had been able to stay for completion and some issues arose from sequencing and reflect that the Respondent was not able to complete the work.

[35] Taking the above into account, the Board was of the view that, in this case, the attention to detail and level of supervision was not, given the complexity of the job,

---

<sup>12</sup> Section 17 of the Building Act 2004

<sup>13</sup> Section 40(1) of the Building Act 2004

<sup>14</sup> [2001] NZAR 74

of the required standard. There were a number of major issues and many minor ones that indicate the requirement for a a greater level of supervision.

[36] Supervise is defined in section 7<sup>15</sup> of the Act. The definition states:

*supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—*

*(a) is performed competently; and*

*(b) complies with the building consent under which it is carried out.*

[37] In C2-01143 the Board also discussed the levels of supervision it considers will be necessary to fulfil a licensed building practitioner's obligations noting that the level of supervision required will depend on a number of circumstances, including factors such as the type and complexity of the building work to be supervised, the experience of the person being supervised, and ultimately the compliance of the building work carried out under supervision.

[38] Supervision in the context of the Building Act has not yet been considered by the courts. It has, however, been considered in relation to the Electricity Act 1992<sup>16</sup>. The definition of supervision in that Act is consistent with the definition in the Building Act and as such the comments of the Court are instructive. In the case Judge Tompkins stated at paragraph 24:

*“As is made apparent by the definition of “supervision” in the Act, that requires control and direction by the supervisor so as to ensure that the electrical work is performed competently, that appropriate safety measures are adopted, and that when completed the work complies with the requisite regulations. At the very least supervision in that context requires knowledge that work is being conducted, visual and other actual inspection of the work during its completion, assessment of safety measures undertaken by the person doing the work on the site itself, and, after completion of the work, a decision as to compliance of the work with the requisite regulations.”*

[39] Given the above factors, the Board, which includes persons with extensive experience and expertise in the building industry, considered the Respondent has departed from what the Board considers to be an accepted standard of conduct and that the conduct was sufficiently serious enough to warrant a disciplinary outcome.

---

<sup>15</sup> Section 7:

*supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—*

*(a) is performed competently; and*

*(b) complies with the building consent under which it is carried out.*

<sup>16</sup> *Electrical Workers Registration Board v Gallagher* Judge Tompkins, District Court at Te Awamutu, 12 April 2011

### Contrary to a Building Consent

[40] Under section 40 of the Act all building work must be carried out in accordance with the building consent issued. Section 40 of the Act provides:

**40 Buildings not to be constructed, altered, demolished, or removed without consent**

(1) *A person must not carry out any building work except in accordance with a building consent.*

(2) *A person commits an offence if the person fails to comply with this section.*

(3) *A person who commits an offence under this section is liable on conviction to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.*

[41] The process of issuing a building consent and the subsequent inspections under it ensure independent verification that the Building Code has been complied with and that the works will meet the required performance criteria in the Building Code. In doing so, the building consent process provides protection for owners of works and the public at large. This accords with the purposes of the Act.

[42] Once a building consent has been granted, any changes to it must be dealt with in the appropriate manner. There are two ways in which changes can be dealt with; by way of a minor variation under section 45A of the Act; or as an amendment to the building consent. The extent of the change to the building consent dictates the appropriate method to be used. The critical difference between the two options is that building work under a building consent cannot continue if an amendment is applied for.

[43] If changes are made to what is stipulated in the building consent, and the correct process for the change is not used, then the building work can be said to have not been completed in accordance with the building consent. Unlike negligence, contrary to a building consent is a form of strict liability offence. All that need be proven is that the building consent has not been complied with, no fault or negligence must be established<sup>17</sup>. The Board does, however, consider that the seriousness of the disciplinary offending still needs to be taken into account.

[44] The Board was of the view that the addition of a third skylight required a change to the building consent, which should have been done by a licenced designer. The Board did not consider it was a minor variation and, even if the Respondent felt that it was, it still needed to be discussed with the designer and the Council and confirmation that it was or would be accepted as a minor variation obtained prior to the building work being carried out. that did not occur. Rather, the Respondent gave

---

<sup>17</sup> *Blewman v Wilkinson* [1979] 2 NZLR 208

evidence that he was putting the paperwork together for presentation to the Council at the end of the job. This raises the risk of it not being accepted as a minor variation.

- [45] The Board finds that the addition of a third skylight means that the building work was not completed as per the approved building consent and that the disciplinary offence has been committed.

### **Penalty, Costs and Publication**

- [46] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

- [47] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

### Penalty

- [48] The purpose of professional discipline is to uphold the integrity of the profession; the focus is not punishment but the enforcement of a high standard of propriety and professional conduct. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*<sup>18</sup> commented on the role of “punishment” in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

*[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.*

- [49] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*<sup>19</sup> the Court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act, they do have the advantage of simplicity and transparency. The Court recommended adopting a starting point for a penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.

- [50] The offending was in the mid-range. The Board adopted a starting point of a modest fine. The Respondent accepted many of the failings and appeared to have learnt from the matter. He had attended to some of the issues that arose. Given those factors, the Board decided that it would reduce the penalty to a censure. A censure is a public statement of disapproval.

---

<sup>18</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>19</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

## Costs

- [51] Under section 318(4) the Board may require the Respondent “to pay the costs and expenses of, and incidental to, the inquiry by the Board.”
- [52] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case<sup>20</sup>.
- [53] In *Collie v Nursing Council of New Zealand*,<sup>21</sup> where the order for costs in the tribunal was 50% of actual costs and expenses, the High Court noted that:
- But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.*
- [54] Based on the above, the Board’s costs order is that the Respondent is to pay the sum of \$3,500 toward the costs of and incidental to the Board’s inquiry. This is the Board’s scale amount for a half-day hearing and is significantly less than 50% of actual costs.

## Publication

- [55] As a consequence of its decision, the Respondent’s name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licensed Building Practitioners’ scheme as is required by the Act<sup>22</sup>. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:
- In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.*
- [56] As a general principle, such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.
- [57] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990<sup>23</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>24</sup>. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal

---

<sup>20</sup> *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

<sup>21</sup> [2001] NZAR 74

<sup>22</sup> Refer sections 298, 299 and 301 of the Act

<sup>23</sup> Section 14 of the Act

<sup>24</sup> Refer sections 200 and 202 of the Criminal Procedure Act

Procedure Act do not apply but can be instructive<sup>25</sup>. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*<sup>26</sup>.

[58] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest<sup>27</sup>. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.

[59] Based on the above, the Board will not order further publication.

### **Section 318 Order**

[60] For the reasons set out above, the Board directs that:

**Penalty:** Pursuant to section 318(1)(d) of the Building Act 2004, the Respondent be censured.

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$3,500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

**Publication:** The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(I)(iii) of the Act.

**In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the Register and the Respondent being named in this decision.**

[61] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

### **Submissions on Penalty, Costs and Publication**

[62] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **16 March 2021**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received, then this decision will become final. If submissions are received, then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

[63] In calling for submissions on penalty, costs and mitigation, the Board is not inviting the Respondent to offer new evidence or to express an opinion on the findings set out in this decision. If the Respondent disagrees with the Board's findings of fact

---

<sup>25</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>26</sup> *ibid*

<sup>27</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

and/or its decision that the Respondent has committed a disciplinary offence, the Respondent can appeal the Board's decision.

### **Right of Appeal**

[64] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>ii</sup>.

Signed and dated this 23<sup>rd</sup> day of march 2021



**Mr C Preston**  
Presiding Member

---

#### **<sup>i</sup> Section 318 of the Act**

- (1) *In any case to which section 317 applies, the Board may*
  - (a) *do both of the following things:*
    - (i) *cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and*
    - (ii) *order that the person may not apply to be relicensed before the expiry of a specified period:*
  - (b) *suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:*
  - (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
  - (d) *order that the person be censured:*
  - (e) *order that the person undertake training specified in the order:*
  - (f) *order that the person pay a fine not exceeding \$10,000.*
- (2) *The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).*
- (3) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.*
- (4) *In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.*
- (5) *In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."*

#### **<sup>ii</sup> Section 330 Right of appeal**

- (2) *A person may appeal to a District Court against any decision of the Board—*
  - (b) *to take any action referred to in section 318.*

#### **Section 331 Time in which appeal must be brought**

*An appeal must be lodged—*

- (a) within 20 working days after notice of the decision or action is communicated to the appellant; or*
- (b) within any further time that the appeal authority allows on application made before or after the period expires.*