

**BPB Complaint No. C2-01258**

**IN THE MATTER OF**

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

**AGAINST**

[The Respondent], Licensed Building Practitioner No. [omitted]

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**DECISION OF THE BUILDING PRACTITIONERS' BOARD**

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**Introduction**

- [1] This decision arises out of a decision by the Building Practitioners Board ("the Board") where the Board found that the Respondent had failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) 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) (s 317(1)(da)(ii) of the Act).
- [2] The Respondent is a Licensed Building Practitioner with a Carpentry and Site Area of Practice 2 Licences issued 19 October 2011.
- [3] The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).
- [4] The following Board Members were present at the hearing:
- |                    |              |
|--------------------|--------------|
| Richard Merrifield | Deputy Chair |
| Mel Orange         | Board Member |
| Dianne Johnson     | Board Member |
| Bob Monteith       | Board Member |
- [5] The Board's substantive decision was issued on 29 April 2016. In it the Board outlined the principles on which its decisions on penalty, costs and publication are based and gave its preliminary views in respect of the appropriate penalty. The Board invited the Respondent to make written submissions prior to confirming its position.
- [6] On or about 12 May 2016 the Board received the Respondent's submissions. The Board notes that the majority of the submissions related to the Respondent's disagreement with the Board's substantive decision. In this respect the Board reminds the Responded of his right to appeal.

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- [7] The Board has considered those aspects of the submissions that relate to penalty and costs and has made the following final decision.

### **Penalty**

- [8] The Board's initial view was that a fine of \$1,000 was the appropriate penalty for the disciplinary offence. Having considered the submissions received the Board has decided to revise the decision. The Board has reduced the fine to \$500.

### **Costs**

- [9] The Board's initial view was that costs of \$750 were appropriate. Having considered the submissions received the Board has decided to reduce the costs to \$500.

### **Publication**

- [10] The Board's initial view was there were or were not good reasons to further publish the matter. That remains the Board's position.

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

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

**Penalty:** Pursuant to s 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$500.

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

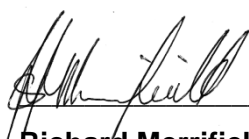
**Publication:** The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 301(1)(iii) of the Act.

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.

### **Right of Appeal**

- [12] The right to appeal Board decisions is provided for in s 330(2) of the Act.

Signed and dated this 31<sup>st</sup> day of May 2016



**Richard Merrifield**  
Presiding Member

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<sup>i</sup> **Section 330 Right of appeal**

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- (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.*