

## Before the Building Practitioners Board

	BPB Complaint No. 26770
Licensed Building Practitioner:	William Stuart Beck (the Respondent)
Licence Number:	BP 134496
Licence(s) Held:	Carpentry

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

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Complaint or Board Inquiry	Complaint
Hearing Location	Auckland
Hearing Type:	In Person
Hearing Date:	29 January 2026
Decision Date:	29 April 2026

#### Board Members Present:

Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2 (Presiding)  
Mr G Pearson, Barrister and Solicitor, Legal Member  
Mr G Anderson, LBP, Carpentry and Site AoP 2  
Ms E Harvey McDouall, Registered Architect

#### Appearances:

Mr Anitesh Govind, counsel for the Respondent.

#### 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 under section 317(1)(b) or (g) of the Act.

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## Summary

- [1] The Board has found that the Respondent did not:
- (a) carry out or supervise building work in a negligent or incompetent manner, contrary to section 317(1)(b) of the Act; and did not
  - (b) breach the code of ethics prescribed under section 314A of the Act contrary to section 317(1)(g).

## 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.<sup>1</sup>
- [3] In this matter, the disciplinary charges the Board resolved to further investigate<sup>2</sup> were that the Respondent may, in relation to building work at [OMITTED], have:
- (a) Carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act; and

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<sup>1</sup> 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.

<sup>2</sup> 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.

- (b) Breached the code of ethics prescribed under section 314A of the Act contrary to section 317(1)(g) of the Act.

## **Evidence**

### Background

- [4] The Board decided to further investigate whether a building consent should have been obtained and the Respondent's supervision in relation to the elements that were fire-rated, the removal of bracing and/or load-bearing structural elements and compliance of new structural elements installed, including their load-bearing capacity and the connections used and outlined in Site Visit Reports issued by the structural engineer.
- [5] The Board heard evidence from the Complainant, [OMITTED], who carried out the physical building work; and considered documentary evidence including correspondence, invoices, and engineering material. The Respondent, Mr Beck, filed a witness statement and gave evidence. The Board also received evidence from [OMITTED], a director of [OMITTED], [OMITTED], [OMITTED], a Chartered Professional Engineer, and [OMITTED], the Complainant's father.
- [6] [OMITTED] may have had some communications during the period the work was undertaken, but his formal involvement arose after the work had been completed. He was engaged in the context of the Certificate of Acceptance process to address the consequences of the work having been undertaken without a building consent.
- [7] [OMITTED] was an experienced builder but was not a Licensed Building Practitioner. He carried out the physical building work, including the installation of a structural beam or lintel. He did not involve himself in matters of regulatory compliance. He took instructions on a day-to-day basis and, in relation to this project, took those instructions from [OMITTED].
- [8] [OMITTED] was responsible for the day-to-day management of the project and dealt directly with the Complainant and with [OMITTED]. The Respondent's evidence addressed his role in relation to the project and whether he carried out or supervised the work. [OMITTED]'s evidence was limited to her observations relating to communications with the Complainant.
- [9] [OMITTED] confirmed that the work required engineering verification and requested information relating to the beam installation, including its size, fixings, and supporting documentation. His involvement was focused on assessing and facilitating compliance by way of a certificate of acceptance, after the work had been undertaken, rather than supervising or inspecting it at the time it was carried out.
- [10] [OMITTED] was present at the site during some of the work and raised concerns about aspects of the work as it was being undertaken. His evidence was directed to his observations and interactions with those involved.

- [11] It was not in dispute that the building work undertaken included structural work requiring a building consent. No building consent was in place at the time the work was carried out. The work was subsequently regularised through a Certificate of Acceptance process.
- [12] The contemporaneous documentation included an invoice issued by [OMITTED] dated 30 August 2023, which referred to “install new beam” and associated building work. Following completion of the work, the Complainant sought information required for the Certificate of Acceptance process, including details of the beam installation. Those requests were directed to, and copied to, both the Respondent and [OMITTED].

#### Company-level involvement

- [13] The work was undertaken and invoiced through [OMITTED]. The Respondent and [OMITTED] were directors of that company.
- [14] The Respondent therefore had a formal association with the project at a company level, including a potential financial interest in the work undertaken through the company.
- [15] The day-to-day management of the project, including dealings with the Complainant and engagement of trades, was undertaken by [OMITTED]. He was the primary point of contact with the Complainant.
- [16] The evidence does not establish that [OMITTED] shared operational information with the Respondent or that the Respondent was kept informed of decisions as they were made on the project.

#### Operational control and instruction

- [17] [OMITTED] carried out the physical building work, including the installation of the beam.
- [18] [OMITTED] took instructions on a day-to-day basis from [OMITTED].
- [19] The evidence does not establish that the Respondent gave instructions to [OMITTED], directed the work, or exercised supervisory control over it.

#### Respondent’s involvement on the project

- [20] The Respondent had completed some external earthworks, landscaping and retaining walls (externally), and non-structural internal work at the property prior to the work in issue.
- [21] The Respondent attended the site on some occasions during the period the work was being undertaken. His attendance was for organisational matters such as tools or materials, rather than for the purpose of supervising or instructing the work.

- [22] The evidence does not establish that the Respondent attended the site in a supervisory capacity or inspected or approved the beam installation at the time it was carried out.
- [23] The Respondent was copied into correspondence after the work had been completed, particularly in relation to the Certificate of Acceptance process and requests for information about the beam. This involvement occurred after the work had been undertaken.

#### Other witness evidence

- [24] [OMITTED] did not observe the Respondent carrying out building work on the dwelling.
- [25] [OMITTED] raised concerns during the course of the work. The evidence does not establish that those concerns were directed to, or acted upon by, the Respondent.

#### Factual conclusions

- [26] Taking the evidence as a whole, the Board finds that:
- (a) The Respondent was a director of the company through which the work was undertaken;
  - (b) The day to day control and management of the project rested with company director, [OMITTED];
  - (c) The physical and structural building work was carried out by [OMITTED];
  - (d) The Respondent did not give instructions to, supervise, or direct the building work; and
  - (e) The Respondent was not involved in the unconsented structural work, at the time it was carried out.

#### **Negligence or Incompetence**

- [27] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,<sup>3</sup> that the Respondent departed from an accepted standard of conduct when carrying out or supervising building work as judged against those of the same class of licence. This is described as the *Bolam*<sup>4</sup> test of negligence.<sup>5</sup> To make a finding of incompetence, the Board has to determine that the Respondent has demonstrated a lack of ability, skill, or knowledge to carry out or supervise

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<sup>3</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 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.

<sup>4</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>5</sup> Adopted in New Zealand in various matters including: *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

building work to an acceptable standard.<sup>6</sup> A threshold test applies to both. Even if the Respondent has been negligent or incompetent, the Board must also decide if the conduct fell seriously short of expected standards.<sup>7</sup> If it does not, then a disciplinary finding cannot be made.

#### Has the Respondent departed from an acceptable standard of conduct

[28] The question for the Board is whether the Respondent departed from an acceptable standard of conduct in carrying out or supervising building work. That requires consideration of whether he had a role in the work sufficient to give rise to a responsibility to act. There may be cases where a licensed building practitioner in a position of responsibility fails to supervise properly and is thereby negligent or incompetent. However, on the facts as found, the Board is satisfied that [OMITTED] managed the engagement with the Complainant, directed works and staff on-site and any external input required for the project. In this case, [OMITTED] had the client relationship and dealt directly with the Complainant. The Board is not satisfied on the evidence that the Respondent had a role in the work that required him to supervise or intervene.

[29] When considering what an acceptable standard is, the Board must consider the purpose of the Building Act<sup>i</sup> as well as the requirement that all building work must comply with the Building Code<sup>8</sup> and any building consent issued.<sup>9</sup> The test is an objective one.<sup>10</sup> In this case, the Board does not find that responsibility for the non-compliant work rests with the Respondent.

#### Has the Respondent been negligent or incompetent?

[30] We are satisfied that the Respondent was not negligent or incompetent in respect of the work in issue.

#### **Code of Ethics**

[31] The Code of Ethics for Licensed Building Practitioners was introduced by Order in Council.<sup>11</sup> It was introduced in October 2021 and came into force on 25 October 2022. The obligations are new, but there was a transition period of one year to allow practitioners to become familiar with the new obligations. Whilst the Code of Ethics

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<sup>6</sup> In *Beattie v Far North Council* Judge McElrea, DC Whangarei, CIV-2011-088-313 it was described as “a demonstrated lack of the reasonably expected ability or skill level”. In *Ali v Kumar and Others*, [2017] NZDC 23582 at [30] as “an inability to do the job”

<sup>7</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [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”.

<sup>8</sup> Section 17 of the Building Act 2004

<sup>9</sup> Section 40(1) of the Building Act 2004

<sup>10</sup> *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71 noted that the tribunal does not have to take into account the Respondent’s subjective considerations.

<sup>11</sup> Building (Code of Ethics for Licensed Building Practitioners) Order 2021

is new, ethics have been a part of other regulatory regimes<sup>12</sup> for some time, and the Board has taken guidance from decisions made in other regimes.

- [32] The Code also differentiates between Licensed Building Practitioners who are in business and those who are employed, in that some of the ethical obligations only apply to those who are in business. In this matter, the Respondent was in business.
- [33] The disciplinary provision in the Act simply states, “has breached the code of ethics”. Most disciplinary regimes frame the charge as some form of malpractice or misconduct, and the Board has considered the allegations within such a framework and with reference to superior court decisions. Within this context, in *Dentice v Valuers Registration Board*,<sup>13</sup> Chief Justice Eichelbaum stated the purposes of disciplinary processes are to:

*Enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practice the profession in question; to protect both the public, and the profession itself, against persons unfit to practice; and to enable the professional calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*

- [34] The Board also notes that the courts have applied a threshold test to disciplinary matters, and it has applied those tests. In *Collie v Nursing Council of New Zealand*,<sup>14</sup> the test was stated as:

*[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.*

- [35] Finally, when considering alleged breaches of the Code of Ethics, the Board needs to consider whether the conduct, if upheld as a breach of the Code, reaches the threshold for a disciplinary finding of disrepute, which is a more serious disciplinary finding.
- [36] Relevantly, the Building (Code of Ethics for Licensed Building Practitioners) Order 2021 requires licensed building practitioners to:
- (a) Comply with the law and report breaches of the law (Part 3);
- [37] Their obligations clearly apply where a licensed building practitioner in a position of responsibility is willfully blind to unacceptable practices in the course of work for which they are responsible, and where they choose not to exercise the authority they have. However, in the present case, we are satisfied, for the reasons already

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<sup>12</sup> Lawyers, Engineers, Architects and Accountants, for example

<sup>13</sup> [1992] 1 NZLR 720 at 724

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

stated, that the Respondent did not have a duty to intervene in or take responsibility for the work.

- [38] For the reasons set out above, the Board is satisfied that the Respondent did not carry out or supervise the relevant unconsented work, and that he was not a party to the work proceeding without a building consent.

#### **Board Decisions**

- [39] For the reasons set out above, the Board is not satisfied that the Respondent has been negligent or incompetent, or that he has breached the Code of Ethics.
- [40] The complaint is therefore dismissed.

Signed and dated this 20<sup>th</sup> day of May 2026.



**Mrs F Pearson-Green**  
Presiding Member

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#### <sup>i</sup> **Section 3 of the Act**

*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:*
- (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.*