

Before the Building Practitioners Board

	BPB Complaint No. CB26038
Licensed Building Practitioner:	Aihua Wu (the Respondent)
Licence Number:	BP 114313
Licence(s) Held:	Bricklaying and Blocklaying - Veneer

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 and Decision Date:	10 March 2023

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mr D Fabish, LBP, Carpentry and Site AoP 2
Mrs J Clark, Barrister and Solicitor, Legal Member
Ms K Reynolds, Construction Manager

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), (d) and (da) (ii) of the Act.

The Respondent is fined \$2,500 and ordered to pay costs of \$1,500. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary

- [1] The homeowners made a complaint about the workmanship on their new two-storey dwelling. A Council site inspection report set out the instances of unsatisfactory building work and building work which was not in accordance with the building consent.
- [2] After determining the Respondent’s role on this project, the question for the Board was whether the Respondent’s supervision of the building work was negligent or incompetent. This required a determination of two issues – had the Respondent departed from an acceptable standard, and, if so, was that departure serious enough to warrant a disciplinary finding.

- [3] The further issue before the Board was whether the work the Respondent supervised had been carried out in a manner contrary to the building consent. To determine this issue, the Board has only to find that building work departed from the building consent and does not have to consider if that departure was deliberate or negligent. However, the seriousness of the conduct under investigation does have to be taken into account.
- [4] In addition, the Respondent did not provide a record of work to the Complainant or the Territorial Authority. He provided it to the main contractor instead. The question for the Board was whether the Respondent had failed to provide a record of work on the completion of restricted building work. There were two issues that had to be determined. Firstly, was the Respondent's restricted building work complete and, secondly, if it was, did the provision of the record of work to the main contractor constitute a good reason not to provide the record of work.
- [5] The Board investigated the issues and decided that the Respondent had been negligent in his supervision of the building work and that the building work was not in accordance with the building consent. The Board also found that the Respondent's restricted building work was complete and that provision of the record of work to the main contractor did not fulfil his statutory obligations and therefore was not a good reason to withhold the record of work.
- [6] The Board decided that the Respondent would be fined \$2,500 and ordered to pay costs of \$1,500.

The Charges

- [7] 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
- [8] The hearing itself is not a review of all of the available evidence. Rather it is an opportunity for the Board to call and question witnesses to further investigate aspects of the evidence.
- [9] 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:
- (a) carried out or supervised building work in a negligent or incompetent manner (section 317(1)(b) 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.

- (b) carried out or supervised building work that does not comply with a building consent (section 317(1)(d) of the Act); and
- (c) failed, without good reason, in respect of a building consent that relates to restricted building work that he has supervised, to provide the owner and the Territorial Authority with a record of work, on completion of the restricted building work (section 317(1)(da)(ii) of the Act).

- [10] The issues raised in the Council site inspection report of 2 October 2020 formed the basis of the Board's inquiry into the Respondent's conduct.
- [11] At the hearing, the Board focussed its questioning on four aspects of the building work identified in the Council site inspection report: brick shelf angles, water runoff for the deck, window flashings with no end caps installed and the welding of the garage lintel. Of these, the building work relevant to the issue of water runoff from the deck was not carried out or supervised by the Respondent and therefore is not addressed further in this decision.
- [12] This matter proceeded as a consolidated hearing with two other Licensed Building Practitioners ([OMITTED] CB26040 and [OMITTED] CB25518) involved in the same project, facing the same grounds of discipline. Separate decisions have been issued in respect of each of them.

The Respondent's Role

- [13] The Respondent did not carry out any building work. His role was supervising approximately three employees of the main contractor, [OMITTED] working on the site. The Respondent provided a record of work to the main contractor, which indicated that he had supervised the brick work.
- [14] The Respondent gave evidence that he attended the project before it started to give instructions, did checks of the work at critical points and was told by Mr [OMITTED], the main contractor, if there were any problems requiring him to come to site. Mr [OMITTED] advised that the three employees had been working for him for about four years. The Respondent had supervised Mr [OMITTED]'s workers under this type of arrangement on more than 10 other occasions.
- [15] The Board accepts that the role of the Respondent was as the supervisor of the brick cladding work.

Negligence or Incompetence

- [16] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,³ that the Respondent departed from an accepted standard

³ *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.

of conduct when supervising building work as judged against those of the same class of licence. This is described as the *Bolam*⁴ test of negligence.⁵

- [17] To make a finding of incompetence, the Board has to determine that the Respondent has demonstrated a lack of ability, skill, or knowledge to supervise building work to an acceptable standard.⁶ 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.⁷ If it does not, then a disciplinary finding cannot be made.

Has the Respondent departed from an acceptable standard of conduct

- [18] When considering what an acceptable standard is, the Board considers the purpose of the Building Actⁱ as well as the requirement that all building work must comply with the Building Code⁸ and any building consent issued⁹. The test is an objective one.¹⁰ Ultimately, the Board also needs to consider whether the work met the requirements of the building code and, if not, the level of non-compliance
- [19] When considering the acceptable standard in relation to supervision, the Board considers the definition of supervise in section 7¹¹ of the Act and the discussion in its previous decisions of the supervision levels it considers necessary to fulfil a licensed building practitioner's obligation.¹²
- [20] Supervision in the context of the Building Act has not yet been considered by the courts. It has, however, been considered in relation to Electricity Act 1992,¹³ and the Board is guided by those principles in assessing the adequacy of the Respondent's supervision.

⁴ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁵ 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)

⁶ 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 [OMITTED] and Others*, [2017] NZDC 23582 at [30] as “an inability to do the job”

⁷ *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”.

⁸ Section 17 of the Building Act 2004

⁹ Section 40(1) of the Building Act 2004

¹⁰ *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.

¹¹ 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.

¹²LBP decision C2-01143

¹³ *Electrical Workers Registration Board v Gallagher* Judge Tompkins, District Court at Te Awamutu, 12 April 2011

Brick Shelf Angles

- [21] Mr Tangi Henry, a Building Control Officer from the Auckland City Council, attended the site inspection meeting on 2 October 2020, and he explained the issue with the brick shelf angles. After observing cracks in the brickwork, he discovered short pieces of brick shelf angle were used to complete longer lengths over the garage door, and the end cuts to those angles had not been galvanised. He gave further evidence that these lengths were neither bolted nor welded as was required. Mr [OMITTED], a Licensed Building Practitioner who carried out the remedial brick work confirmed that the ends of the shelf angles were not galvanised.
- [22] Mr [OMITTED] confirmed that he had ordered and checked the shelf brackets, and he did not agree that the shelf angles were short. He stated that they were all the same size. However, on being directed to photographs of the shelf angles, Mr [OMITTED] accepted that *“the workmanship was not great”* and that the pieces were not connected to each other and were only bolted into the framing.
- [23] There was conflicting evidence on who carried out this work. Mr Wu, the bricklayer, said his workers helped the carpenters to do this work. The Respondent said his workers did it, and he supervised it. The Complainant homeowner, who was living on-site, said it was done by the bricklayers’ workers.
- [24] On balance, the Board found that Mr [OMITTED] was responsible for the supervision of this work, and it has addressed this in a separate decision.
- [25] However, irrespective of who carried out this work and Mr [OMITTED]’s supervisory responsibility, the Respondent, as the supervising Licensed Building Practitioner of the brickwork, had a responsibility to ensure the shelf angles were adequate before the brickwork was undertaken.
- [26] The Board finds that it is not acceptable to install short pieces of brick shelf angle and not to weld or bolt them or to have cut ends treated against rust and that the installation of the brick shelf angles did not meet the requirements of Clause B2 of the Building Code. This finding is based on the evidence of Mr Henry and the Council site inspection reports. Having found that the work was non-compliant, it follows that the Respondent’s supervision of the brickwork was not to an acceptable standard.

Garage Lintel

- [27] Mr [OMITTED] is a Licensed Building Practitioner who did remedial work on this project. He gave evidence of removing the gib in the garage and discovering there were no packers, only a couple of blocks holding the gib, and bolts were missing from the steel portal. Mr [OMITTED] also gave evidence of finding corrosion in the weld joint.

- [28] Mr [OMITTED] said that he contracted a person to do this work but that he could not now find him. He said that the Respondent's bricklaying workers assisted this person.
- [29] The Respondent agreed that it was an employee of the main contractor who did this work but that none of his workers were involved. However, the Complainants, who lived on-site, disagreed, and said that the Respondent and his workers did this task. The Complainant, a qualified welder, gave evidence that he assisted in holding the lintel while the welding was done, as he could see that more people were needed to make the situation safe.
- [30] In considering this conflicting evidence, the Board finds on the balance of probabilities, that a combination of the Respondent's and Mr [OMITTED]'s workers carried out the fixing of the garage lintel. However, irrespective of whose workers carried out this work, it was work that was integral to work being supervised by the Respondent and, as such, it was his responsibility to supervise this task.
- [31] The Board finds that the welding of the garage lintel onto the 300PFC, the absence of bolts and the non-priming of the cut were not acceptable and did not meet the requirements of Clause B2 of the Building Code. This finding is based on the evidence of Mr Henry and the Council site inspection reports. Having found that the work was non-compliant, it follows that the Respondent's supervision of the work was not to an acceptable standard.

Window flashing stop ends

- [32] Mr [OMITTED] said that he supervised and checked this work and that all stop ends were installed as required. He said he was "*totally sure it was installed*". Mr Henry said there were a couple of instances of missing stop ends but that he did not personally do the inspection. Mr [OMITTED] said that there were 6-8 pairs of stop ends not done. The Complainants said the majority of the windows they checked had no stop ends. Mr Henry explained that the absence of the stop ends was significant as without them, water can ingress behind into the cavity space and cause damage.
- [33] Photographs were identified, which showed the stop ends in place as required. The Respondent accepted that the bricklayers may have removed the stop ends in the course of doing their work and failed to replace them. Mr Henry agreed that this was common practice by bricklayers.
- [34] The Board found, on the balance of probabilities, that the stop ends were initially installed correctly and were likely removed at a later stage by other persons. The Board considers that irrespective of who removed the stop ends, it was the Respondent's responsibility to check at the finish of the job that the stop ends were correctly in place.
- [35] The Board finds that the non-replacement of the stop ends was not acceptable and did not meet the requirements of Clause E2 of the Building Code. This finding is based on the evidence of Mr Henry and the Council site inspection reports. Having

found that the work was non-compliant, it follows that the Respondent's supervision of the work was not to an acceptable standard.

Was the conduct serious enough

- [36] The Board is required to consider whether the conduct was serious enough to warrant a disciplinary outcome.
- [37] The supervisory conduct that the Board has focused on in its findings is the checking of the brick shelf angles, garage lintel fixing and replacement of the window flashing stop ends. Given the potential consequences of the workmanship issues, and the accumulation of these deficiencies, the Board, which includes persons with extensive experience and expertise in the building industry, decided that the Respondent's conduct was sufficiently serious enough to warrant a disciplinary outcome.

Has the Respondent been negligent or incompetent

- [38] The Board finds the Respondent's supervision departed from an acceptable standard and that he has been negligent but not incompetent. The Board makes this finding by focusing on the brick shelf angles, garage lintel fixing, and the non-replacement of the window flashing stop ends. Accordingly, the Board finds that the Respondent has committed the disciplinary offence under section 317(1)(b) of the Act.

Contrary to a Building Consent

- [39] Building consents provide detailed plans and specifications for building work. They are issued by Territorial or Building Consent Authorities on the basis that the building work will meet the provisions of the Building Code.¹⁴ Once issued, there is a requirement that the building work be carried out in accordance with the building consent.¹⁵ Building consents also stipulate the number and type of inspections the issuing authority will carry out during the build.¹⁶ Inspections ensure independent verification that the building consent is being complied with.
- [40] If building work departs from the building consent issued, the Board can find that a disciplinary offence under section 317(1)(d) of the Act has been committed. The Board does not have to find that departure was deliberate or a result of negligent conduct.¹⁷ The Board does, however, consider that the seriousness of the conduct under investigation does have to be taken into account. As such, even if the Respondent's building work departed from the building consent, the Board must also decide if the conduct fell seriously short of expected standards.¹⁸ If it does not, then a disciplinary finding cannot be made.

¹⁴ Section 49 of the Act

¹⁵ Section 40 of the Act

¹⁶ Section 222 of the Act

¹⁷ *Blewman v Wilkinson* [1979] 2 NZLR 208

¹⁸ *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,

Was there building work that differed from the building consent

- [41] The checking of the brick shelf angles, fixing of the garage lintel, and the non-replacement of the stop ends were all building work which differed from the building consent.

Was the conduct serious enough

- [42] As with the Board's finding under negligence, the departures from the building consent were serious enough to make a finding under section 317(1)(d) of the Act.

Has the Respondent supervised building work contrary to a building consent

- [43] The Respondent has committed the disciplinary offence under section 317(1)(d) of the Act. It is noted, however, that the finding of negligence and that of building contrary to a building consent are integrally connected, and, as such, they will be treated as a single offence when the Board considers the appropriate penalty to impose.

Failure to Provide a Record of Work

- [44] 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.¹⁹
- [45] 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 territorial authority on completion of restricted building work²⁰ unless there is a good reason for it not to be provided.²¹

Did the Respondent carry out or supervise restricted building work

- [46] The Respondent, through the record of work he completed, acknowledged that he supervised restricted building work.

Was the restricted building work complete

- [47] The Respondent completed his work and left the site. The date of his departure from site was not given in evidence, but his record of work is dated 1 March 2020, so the Board finds that this was the latest date that his restricted building work was complete.

Has the Respondent provided a record of work

- [48] The Respondent acknowledged that he had not provided a record of work to the homeowners or to the Council. He provided a record of work dated 1 March 2020 to

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".

¹⁹ Section 88(1) of the Act.

²⁰ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

²¹ Section 317(1)(da)(ii) of the Act

Mr [OMITTED], as a director of the main contractor. The Respondent said that this was his standard practice.

- [49] Provision of the record of work to the main contractor does not fulfil the Licensed Building Practitioner's statutory obligations. The Respondent should note that whilst it may be common practice for some Licensed Building Practitioners to provide their record of work to a main or head contractor, it is a practice that comes with a degree of risk as the main or head contractor may not pass it on. As such, Licensed Building Practitioners are advised to do what section 88 of the Act states and to provide the record of work to the owner and the Territorial Authority.

Was there a good reason for the Respondent failing to provide his record of work

- [50] The Respondent did not put forward any reason for failing to provide his record of work to the homeowner and the Council other than to demonstrate that he had given it to the main contractor. As discussed above, this does not meet the statutory requirements and, as such, does not constitute a good reason.

Did the Respondent fail to provide a record of work

- [51] The Respondent has failed to provide a record of work on the completion of restricted building work, and he has committed a disciplinary offence under section 317(1)(da)(ii) of the Act.

Board's Decisions

- [52] The Respondent has committed disciplinary offences under sections 317(1)(b)(d) and (da)(ii) of the Act.

Penalty, Costs and Publication

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

- [54] 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

- [55] The purpose of professional discipline is to uphold the integrity of the profession. The focus is the enforcement of a high standard of propriety and professional conduct. In determining the penalty, however, the Board necessarily has to consider whether the Respondent should be punished and how it can deter other Licensed Building Practitioners.²²

²² *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

- [56] In *Lochhead v Ministry of Business Innovation and Employment*,²³ 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.
- [57] The Board considered the offending to be in the mid-range of seriousness and at the same level of culpability as that which the Board has found against Mr [OMITTED]²⁴. A starting point of \$2,500 was adopted. There were aggravating factors – three offences have been upheld (noting, however, that for penalty purposes of section 317(1)(b) and (d) are considered as one). There were also mitigating factors. The Respondent did provide the record of work to the main contractor, and it was Mr [OMITTED]'s actions in withholding the records of work from the homeowner and Council which have given rise to this situation. There was no evidence that the Respondent was even aware that there was an issue over the provision of the record of work prior to this complaint.
- [58] Weighing these factors, the Board has decided that the penalty remains at the starting point of \$2,500.

Costs

- [59] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.²⁵
- [60] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings²⁶. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case²⁷.
- [61] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings, simple, moderate, and complex. The current matter was moderate. Adjustments are then made.
- [62] Ordinarily, the costs order for a full-day hearing, as this was, is \$7,000. As this was a consolidated hearing, the Board has adopted a total costs award of \$5,000 to be apportioned between the three Licensed Building Practitioners.

²³ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

²⁴ LBP decision CB 25518

²⁵ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

²⁶ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

²⁷ *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.

[63] The Board has allocated a larger portion of the costs to the Respondent than that ordered from Mr [OMITTED], as the Respondent has had three disciplinary offences upheld, compared to Mr [OMITTED]'s one. However, the Respondent has received a smaller portion of the costs than Mr [OMITTED], as Mr [OMITTED] had other factors relevant only to him which were taken into account. The Board's costs order is that the Respondent is to pay the sum of \$1,500 toward the costs of and incidental to the Board's inquiry.

Publication

[64] 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,²⁸ and he will be named in this decision. The Board is also able, under section 318(5) of the Act, to order further publication.

[65] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.²⁹ Further, as a general principle, publication 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, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.³⁰

[66] Based on the above, the Board WILL NOT order further publication.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$2,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (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.

²⁸ Refer sections 298, 299 and 301 of the Act

²⁹ Section 14 of the Act

³⁰ Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

[68] 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

[69] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until the close of business on **28 April 2023**. 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.

Right of Appeal

[70] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱⁱ.

Signed and dated this 5th day of April 2023



Mr M Orange
Presiding Member

ⁱ 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.*

ii 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.”*

iii 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.*