



Weathertight Homes **TRIBUNAL**

RESOLUTION

*AN OCCASSIONAL NEWSLETTER FROM
THE CHAIR OF THE TRIBUNAL*

The Weathertight Homes Tribunal opened eight months ago. Whilst the number of applications have been lower than was initially anticipated the workload is now increasing with October being the busiest month to date.

Improvements in the Adjudication and Mediation of Claims

The first eight months of operation demonstrate that changes introduced by the Weathertight Homes Resolution Services Act 2006 and the establishment of the Tribunal has resulted in significant improvements to the adjudication and mediation of claims. These improvements include:

- **The timeliness in dealing with claims.**

To date 33 claims have either settled at mediation or been completed. The average length of time from filing to completion for these claims is twelve weeks. The Tribunal does not however expect to maintain a twelve-week average from filing to completion as the majority of claims completed to date have either settled at mediation or been terminated due to a jurisdictional issue. Overall the timeframes are significantly shorter particularly when claimants are prepared to proceed with their claim when they file it with the Tribunal. For example:

- All claims are being allocated preliminary conference dates on being



registered, generally within three weeks of the claim being filed.

- Timetables are set at the preliminary conference, which require respondents to file their responses within 25 working days of the claim being filed or of the respondent receiving a quantified and detailed claim. Extensions to this timeframe are allowed in appropriate circumstances where the 25 working day time limit is oppressive or restrictive in the circumstances of the case.
- Mediation of standalone dwelling claims is taking place within a 20 working day period of being referred to mediation.
- Final hearings are being scheduled within a 35 working day time limit from the referral back from mediation or the date the last response was due to be filed. The only exception is where all the parties agree to an extension of the time because of the particular circumstances of that case.

- **No delays with Tribunal processes**

Unless a claimant has put their claim on hold there are currently no delays within the Tribunal. Once a claim is registered with the Tribunal it is assigned to an adjudicator and a preliminary conference is then scheduled usually within three weeks. At that preliminary conference a mediation date and a formal adjudication date (if required) are usually scheduled. The timeliness of this process may however be affected by joinder or removal applications or where an exchange of documents is required in order for the parties to identify or locate any other parties who should be included.



- **Benefits of streamlined mediation process**

The incorporation of mediation as part of the adjudication process has reduced the time taken in mediation and improved settlement rates. Settlement rates have improved primarily because by the time the claim is referred to mediation the relevant parties have been identified and the Tribunal has dealt with all preliminary applications regarding joining and removing parties. In addition the claim has been quantified and respondents have generally filed an initial response. This means that the correct parties are attending mediation with a greater understanding of each party's claims and defences.

To date 25 claims have settled at mediation, all within the statutory timeframes of 20 working days. There are only three claims that have gone to mediation that have not settled and one of those subsequently settled. Anecdotal feedback from both claimants and respondents suggest that there is a growing level of satisfaction with the mediation process.

- **Case management perceived as being more independent**

The establishment of an independent, standalone Tribunal has improved the perception of the independence of the case management of the adjudication. The case managers within the Tribunal provide the same level of assistance and support to both respondent and claimant.

New Wellington Premises

The new Wellington Weathertight Homes Tribunal offices and hearing rooms at 86 Customhouse Quay were opened on 8th November 2007. They are co-located with the Ministry of Justice Tribunals' Unit and coincidentally are also in the same building as the Department of Building and Housing Weathertight Services Group. The telephone contacts for staff remain



the same but the postal address is now Private Bag 32001, Wellington.

New Application Form

We are in the process of reviewing our application forms to make them more user-friendly, particularly for completing electronically. It is intended that the new application forms will be available on the website within the next two weeks.

Ability to Award General Damages Confirmed

On 28 August 2007 parliament passed the Weathertight Homes Resolution Services (Remedies) Amendment Act 2007 confirming the fact that the Tribunal has the jurisdiction to award general damages. This amendment applies both to adjudications under the 2002 Act and the 2006 Act.

Public seminars

The Tribunal has run a series of seminars, both in Auckland and in Wellington, primarily designed to assist self-represented parties prepare and present their claims or defences within the Tribunal. These seminars have been very well attended and double sessions have had to be run to cater for the interest. To date 342 people have attended the seminars.

We will continue to run these seminars on a regular basis in both Auckland and Wellington. Whilst they are primarily intended for self-represented parties anyone is welcome to attend. The dates for upcoming seminars will be advertised on our website at www.justice.govt.nz\wht.



Filing Claims in the Tribunal

It is important that adequately detailed and quantified claims are filed in the Tribunal.

The most significant cause of delay is claimants not being adequately prepared at the time they file or not quantifying or detailing their claim. Unlike the 2002 process the Tribunal requires claims to be adequately detailed and quantified at the time of filing regardless of whether claimants are wishing to proceed on the basis of estimates, the amounts in the assessor's report, or the actual cost of repairs. Failure to do this can cause significant delays in the adjudication process.

Having a claim adequately quantified and well prepared at the time of filing saves time in the adjudication of the claim and therefore is cost effective for the claimant as well as the respondents and the Tribunal. This is because the number of conferences and procedural applications will be reduced, the timeframe for mediation and adjudication will be shorter, and respondents will be able to respond in more detail to the claims raised.

The timeframes within the Tribunal are tight. Accordingly all parties need to act promptly in complying with directions and timetabling orders made. Adjournments of dates agreed to or directed will generally only be made if there is a very good reason to do so and with the consent of all the parties. Therefore parties or counsel seeking adjournments will need to provide a good reason and the consent of all other parties involved in the claim may be required.

The processes that are followed by the Tribunal are set out in the Chair's directions and other information provided on the Tribunal website: www.justice.govt.nz/wht. It is important that all parties and their representatives are familiar with the Chair's Directions prior to filing or appearing in the Tribunal. The Tribunal therefore expects that all parties and their representatives understand and follow these directions.

Conclusion

To date the Tribunal has been successful in improving the timeliness and processes for adjudication of leaky home claims. There is however always room for improvement and we welcome any feedback or suggestions on how the Tribunal can do things better. Feedback can be provided via post to Private Bag 92535, Auckland, e-mailing us at whitenquiries@justice.govt.nz or by phoning the Tribunal Manager or Chair on 0800 777 757.



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