



Weathertight Homes  
**TRIBUNAL**

# ***RESOLUTION***

***AN OCCASSIONAL NEWSLETTER FROM  
THE CHAIR OF THE TRIBUNAL***

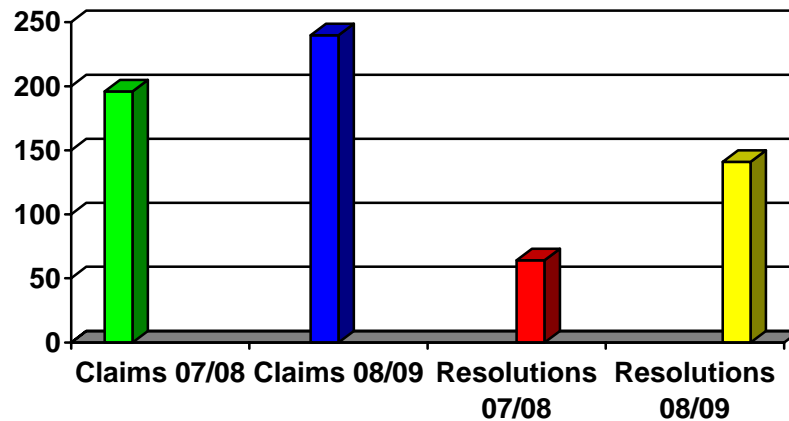
This addition of Resolution marks the two year Anniversary of the Weathertight Homes Tribunal and the introduction of the Weathertight Homes Resolution Services Act 2006. Although the Act and the Tribunal are only 2 years old, there is an in-depth review being undertaken on the Government's response to the whole leaky home issue. It is possible that the review could result in significant changes to the Tribunal's jurisdiction and functioning or even to the abolition of the Tribunal. The latter however is probably less likely as most alternatives proposed to date have posed as many, if not more, additional problems than those sought to be solved. They are also likely to have a similar or greater administrative cost.

Throughout the review and any changes that results from it, the Tribunal will continue to provide, to the best of our ability, access to flexible, cost-effective and relatively speedy procedures for the resolution of claims relating to leaky buildings.

## **Tribunal Statistics**

In the two years to 2 April 2009, the Tribunal received 436 number of applications. Of these 205 have been resolved with the average length of time from filing and resolution being 25 weeks. Whilst settlements appear to be harder to achieve, given the current economic climate, settlement rates are still high with approximately 85% of claims being settled either at mediation or by direct negotiation between the parties prior to a formal adjudication. In appropriate cases, the Tribunal has also started introducing judicial settlement conferences

in claims, which appear capable of settling. At these conferences, if a claim cannot be settled in full, efforts will be made to narrow the issues in dispute in order to reduce the hearing time and the cost to all parties.



The Tribunal is looking forward to a particularly busy quarter with 26 substantive hearings scheduled between April and June 2009. Whilst many of these are likely to settle prior to hearing, others will almost certainly proceed to an adjudicative hearing. New determinations issued will be posted to our website as they are released.

To date we have had 20 multi-unit claims filed with the Tribunal and of those 6 have either settled in full or some respondents have settled with the claimants and taken an assignment of the claim. There are of at least 20 other multi-unit claims that are intending to file with the Tribunal once reports or remedial works are completed.

Whilst the additional substantive hearings and increase in multi-unit claims do put pressure on the Tribunal we continue to have sufficient resources to deal with all claims in a timely way.

### **Chair's Directions as to Service**

There has been some confusion as to parties' responsibility for serving documents and also the method by which the Tribunal serves documents on parties. Accordingly the Tribunal is launching with this issue of Resolution, Chair's Directions as to Service which clarify both the Tribunal's responsibility in relation to serving documents and those of the parties.

These service directions confirm that:

- All key documents served by the Tribunal such as Procedural Orders and Notices of various events will be served on all the parties in both hardcopy and by email.
- Any party filing any documentation relating to preliminary applications such as joinder and removal applications will be required to serve them on all other parties by both email and with a hardcopy.

Attached or accompanying this newsletter is a copy of the Chair's Directions as to Service of Documents. These will come into effect as from 1 May 2009.

### **Experts' Evidence and Briefs filed with the Tribunal**

Tribunal Members have noticed an increasing practice of experts including in their witness briefs a repetition of the view of the party who has engaged them on that party's involvement in the construction process. Alternatively they include disputed factual information of which they have no first hand knowledge from one party's view point. This at best is a waste of time and at worst can compromise the independence of the expert.

Repeating a party's disputed recollection of events in an expert's brief does not give that party's evidence any more or any less credibility. This evidence carries little if any weight and the Tribunal is therefore likely to disregard any parts of experts' reports which are merely repeating the version of events of the party who appointed them.

### **Public Seminars**

The Tribunal continues to run seminars primarily designed to assist parties prepare and present their claims or defences within the Tribunal. To date we have run two different seminars, an introductory seminar looking at Tribunal processes and a remedies seminar which primarily covers the causes of action and potential defences and mitigating issues raised in claims. These seminars are run regularly in Auckland and in the past year have also been run in Wellington, Christchurch and Tauranga. We are also looking at introducing a seminar this year covering in more detail what is required to prepare for mediation and adjudication hearings.

These seminars have been very well attended and received with 750 people attending to date. Double sessions have sometimes been run to cater for the interest. Whilst the seminars are primarily designed to assist self-represented parties, anyone is welcome to

attend. We frequently have experts and counsel attending seminars as well as others involved in different aspects of leaky home claims. The dates for upcoming seminars are advertised on the Tribunal website at [www.justice.govt.nz/wht/seminars](http://www.justice.govt.nz/wht/seminars).

## **Conclusion**

We regularly review our processes and procedures with an aim to improve the timeliness and effectiveness of the mediation/adjudication of leaky home claims. We acknowledge there is room for improvement and we accordingly welcome any feedback or suggestions on how the Tribunal can do things better. Feedback can be provided post to the Tribunal or by emailing or contacting either Mark Wager, the Tribunal Manager, or Patricia McConnell by phone 0800 777 757, or email at [whtenquiries@justice.govt.nz](mailto:whtenquiries@justice.govt.nz).

Patricia McConnell  
Chair  
April 2009

