

CONTRACT NEWS

A TBL Update Service:

The Builders Lawyer: Your Building & Construction Specialist Law Firm

April 2008

CONTACT US AT:

INFO@THEBUILDERSLAWYER.COM OR

P.O. BOX 420 BROADWAY NSW 2007

PHONE: 02 9212 1552

FAX: 02 9212 1542

MOBILE: 0407 288 187

Your Best Lawyers for Residential Disputes!

9212 1552

TBL

Interest Rates

Banks have again raised interest rates this week following the lead of the Reserve Bank. This news cannot be good news for builders or home buyers. Less borrowability means less buyers while less building now will increase the shortage of housing stock when money returns. It comes as no surprise to find national consultants Shrapnel reported as estimating a price rise for residential dwelling over the next five years of 40%.

A chief issue will be whether or not this consumer legislation has any justification if the protection is only available as a last resort as in NSW. If builders must be sued to the extent that they are rendered insolvent or bankrupt before any claim can be made on the insurer, insurers make gross secret profits and the ordinary consumer cannot obtain adequate protection. Unless the builder dies or cannot be found a claim cannot be made. It remains to be seen whether voluntary de-registration of a builder will permit a claim and the result will probably depend on the policies and surrounding originating documents.

Home Owners Warranty

Two probes at central government level this week on home owners warranty. A senate committee will investigate the rationales for the imposition of this substantial cost of home ownership and will report after the expert assessment of the Productivity Commission which is also exploring the basis for new home buyer protection. The latter body established in 1998 has recently sought information on urban water, Chemicals and Plastic regulation, migration trade and investment and the significant study of the Armington model. In light of such high level analyses it may be expected that the Productivity Commission report would be essential to the Senate enquiry. Let's hope rationality prevails and the Senate report follows the Commission's published findings (in time at least).

Government Jobs

Working out which public works contracts might be profitable enough to tender for has never been easy. Working through the documents which must be completed on the side of the Principal – whichever government agency is involved – can throw up interesting insights into the risks and the likely implementation strategies relevant to a particular contract. Being forewarned is fore-armed. Reference to certain internal government documents before a tender, as well as after a dispute arises, is sometimes possible with the assistance of the Freedom of Information legislation. New South Wales government now has extensive transparency for the carrying out of public works and has set out the many facets of the procurement process for State construction work in its Construction Procurement- Process Map accessible at <http://www.treasury.nsw.gov.au/procurement/const-map>

This bulletin is prepared by Julia Tang for the law firm The Builders Lawyer ("TBL") as a service to the building and construction industry. This newsletter is not a substitute for legal advice and you should not act on any information herein without checking it with us first. 1800 688 529 or with your own legal advisors. Let us know if you prefer to receive the print edition; a small charge applies.

