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## LEAKY BUILDINGS -

### The Process

Leaky homes have been in the media again recently as the Government has announced a new home warranty system is to be brought in that will involve guarantees to be issued that houses are fit for sale. Whilst the detail of this is yet to be released, it appears unlikely that it is going to assist those whose homes are already built and are leaking.

Understanding the process therefore, is important for those who will not benefit by the new regime announced by the Government.

Lodging a leaky building claim whilst a relatively straightforward process, is a long drawn out process and often very stressful for the home owner.

If you believe that your home has leaking problems, the first step is to lodge a claim with the Weathertight Homes Resolution Service (a division of the Department of Building and Housing).

You must fulfil the criteria set out in the Act which is you must be the owner, the property must be used principally for residential purposes, it must have been built or altered within 10 years immediately prior to the date of lodging the claim, it must be or have been leaking from the outside, and there must have been damage as a result of those leaks.

Once a claim is lodged and is accepted, an independent assessor will be appointed to carry out a detailed invasive inspection of the house and provide a report to the Weathertight Homes Resolution Service.

Invasive testing involves drilling and cutting holes in the walls throughout the property and taking samples of wood or mould for laboratory analysis.

The assessor will only make temporary repairs and the homeowner is responsible for any further repairs.

Once the assessor's report has determined that the claim is an eligible claim, you have two choices. You could carry out the repairs yourself, or proceed along the resolution process.

If the estimated repairs are less than \$20,000.00, there is a fast track process involving mediation and if that fails, then adjudication.

If it is over \$20,000.00 then the standard process will apply where you lodge a claim with the Weathertight Homes Tribunal for an adjudication.

That involves a normal process of exchanging information and documentation with all parties and consideration would then need to be given as to whether or not further parties need to be joined.

Once all the preliminary process is completed the matter is set down for an adjudication hearing. Depending on the size of the claim and the complexity of the issues to be resolved, the hearing could be anywhere from a few days to four to five weeks.

The Weathertight Homes Resolution Service encourages people to undertake alternative dispute resolution which is usually a more cost effective way of dealing with it if it can resolved in this manner.

If you are considering making a claim, you must also be aware that you have a duty to mitigate leaking damage until permanent repairs can be made. In other words, you can't sit back and let the house rot to the ground and then claim the full amount of damage off the liable parties when it was within your ability to lessen the amount of damage caused by undertaking temporary repairs.

One final thing to be aware of is that leaks often only become noticeable months, or even years after the leaking commenced. In other words, there could be serious damage inside the walls before interior damage is noticeable. At the first sign of damage you should have any leaks investigated thoroughly to ensure that you are not caught by the 10 year limitation.

If you have any questions or require assistance with a leaky building claim, please do not hesitate to contact Eugene Collins or Michael Moohan.

- **The next newsletter will cover the topic of Redundancy Obligations and Rights – by Paul May**