IN THE WEATHERTIGHT HOMES TRIBUNAL

TRI-2013-100-000029
[2014] NZWHT AUCKLAND 9

	BETWEEN	PUNJAB KNOLL BODY CORPORATE 88305 Claimant
	AND	WELLINGTON CITY COUNCIL First Respondent
	AND	MARK WALA Second Respondent
	AND	JANE PATRICIA WALA Third Respondent
	AND	DEREK MCKILLOP Fourth Respondent
	AND	CATHERINE ANNE IRWIN Fifth Respondent
	AND	RICHARD ALAN BLUNDELL Sixth Respondent
	AND	THE NZ HOUSE INSPECTION CO (WELLINGTON) LIMITED Seventh Respondent
	AND	EQUUS INDUSTRIES LIMITED Eighth Respondent
	AND	ELM DECORATORS (1994) LIMITED (Removed) Ninth Respondent
	AND	IAN DAVID MINSHULL (Removed) Tenth Respondent

Hearing: 14 April 2014

Appearances: Mr A Hough for the Wellington City Council, First Respondent
No appearance by Mr Richard Alan Blundell, Sixth Respondent
No appearance by The NZ House Inspection Co (Wellington) Limited, Seventh Respondent.

Amended Decision: 9 September 2014

AMENDED FINAL DETERMINATION
On claims assigned to the Wellington City Council pursuant to the Settlement Agreement
Adjudicator: P J Andrew

AMENDED FINAL DETERMINATION

[1] This amended final determination is being issued to replace the original final determination dated 27 May 2014. It is being issued pursuant to s 92(2) of the Weathertight Homes Resolution Services Act 2006 to correct a clerical error in the recording of the name of the seventh respondent, referred to in the original final determination as the NZ House Inspection Company Limited.

[2] The correct name of the seventh respondent is The NZ House Inspection Co (Wellington) Limited, being company number 1201892. That is the name of the seventh respondent which I adopt and apply for the purposes of this amended determination.

[3] The reasons for the mistaken recording of the name of the seventh respondent are set out in Procedural Order 11 dated 6 August 2014. In that Procedural Order The NZ House Inspection Co (Wellington) Limited was given the opportunity of making submissions on the Tribunal's proposal to exercise its power of correction under s 92(2) of the 2006 Act. However, no submissions have been received from The NZ House Inspection Co (Wellington) Limited.

[4] I am satisfied that this is an appropriate case for the Tribunal to exercise its power of correction under s 92(2), so as to accurately record the name of the seventh respondent as The NZ House Inspection Co (Wellington) Limited, being company number 1201892. This has arisen because the seventh respondent was wrongly named due to an accidental slip or omission that was not identified and addressed before the judgment was issued. A reasonable person reading the pleading would appreciate that the claimant and/or Council meant to sue The NZ House Inspection Co (Wellington) Limited and not the entity named as the seventh respondent.[1] In any event the original description is an entity that does not exist. In my view the proposed amendment can be made in this case without injustice to

[1] See *Allan Scott Wines & Estate Holdings Limited v Lloyd* (2006) 18 PRNZ 199 (HC) referred to in Procedural Order 11 dated 6 August 2014 at [8]. In that case Miller J concluded that r 12 of the District Court Rules (similar to s 92(2) of the Weathertight Homes Resolution Services Act 2006) permits the Court to amend a judgment so as to substitute another defendant, where it has been shown that the defendant was wrongly named due to an accidental slip or omission that was not identified and addressed before the judgment was sealed, and where the amendment can be made without injustice to the substituted parties.

a substituted party, namely The NZ House Inspection Co (Wellington) Limited.

[5] Apart from the correction to the name of the seventh respondent, the remainder of the original final determination dated 27 May 2014 remains unchanged and enforced. That determination, with the corrections to the name of the seventh respondent, is repeated below.

INTRODUCTION

[6] By settlement agreement dated 3 December 2013 the claimants accepted $1,450,000.00 to settle claims against all the respondents except the sixth respondent, Mr Blundell and the seventh respondent, The NZ House Inspection Co (Wellington) Limited (NZHICWL), being company number 1201892.

[7] As part of the settlement agreement the claimants also assigned all their rights and remedies to the first respondent, the Wellington City Council (the Council) to pursue claims against Mr Blundell and the NZHICWL.

[8] This determination deals with the claims against Mr Blundell and NZHICWL. There was no appearance by or on behalf of either of these two respondents at the adjudication hearing.

[9] The critical issues I must determine are whether the Council has established the claims in negligence against Mr Blundell and the claims in negligence and under s 9 of the Fair Trading Act 1986 against NZHICWL. This includes limitation defences raised by Mr Blundell. I also need to determine whether the Council has proven its claim for quantum against each respondent.

THE POSITION OF NZHICWL

[10] The NZHICWL has taken no steps at all in the proceedings. It has not filed any documents, evidence, statement of response or appeared at any of the procedural conferences. There was no appearance by or on its behalf at the hearing held in Wellington on 15 April 2014.

POSITION OF MR BLUNDELL

[11] Mr Blundell was one of the six original respondents to the claim, as filed by the claimants. In Procedural Order 3 dated 22 August 2013 the Tribunal dismissed an application by Mr Blundell that he be removed from the proceedings.

[12] In Procedural Order 4 dated 27 August 2013 all respondents were directed to file a statement of response by 31 January 2014. In Procedural Order 8 dated 28 February 2014 the Tribunal directed that any evidence that Mr Blundell intended to rely upon at the hearing (then rescheduled for 15 April 2014), be filed by 26 March 2014. Mr Blundell did not file a statement of response by the deadline of 31 January 2014 and apart from correspondence submitted in 2013 in support of his application for removal, filed no evidence.

[13] At a pre-hearing telephone conference on Friday 11 April 2014 counsel for Mr Blundell advised that she had oral instructions from her client to admit liability but she was awaiting written confirmation of them. Counsel also noted that there were outstanding issues in relation to quantum, should liability be accepted.

[14] At 8.21am on the day of the hearing, the Tribunal received a memorandum from counsel for Mr Blundell advising that neither she nor her client would be attending the hearing but that Mr Blundell sought to put the Council to formal proof regarding the claims made against him. In that memorandum counsel for Mr Blundell contended that her client's fundamental position was that the claim against him was time-barred because of the operation of s 4(1) of the Limitation Act 1950 and s 393 of the Building Act 2004.

THE NATURE OF THE HEARING – FORMAL PROOF

[15] In *Cole v Xiang*[2] the High Court held that where respondents in the Tribunal take no steps to defend the claim against them, liability does not need to be proved. All the claimant need prove, is the loss consequent on the liability.

[2] *Cole v Xiang* [2012] NZHC 3146.

[16] The High Court reasoned that although there are no specific provisions in the Weathertight Homes Resolution Services Act 2006 (the Act) or any rules promulgated under that Act dealing with this issue, s 125(3) of the Act provides that in the absence of such rules, the rules regulating civil proceedings under the District Courts Act 1947 shall apply with all necessary modifications. Rule 12.28 of the District Court Rules 2009 provides that where a proceeding is undefended and the relief claimed is not a liquidated sum, the proceeding must be tried for the purpose of assessing damages.

[17] In the High Court, the formal proof procedure is dealt with by Rule 15.9. That rule provides that if the defendant does not file a statement of defence within the required time, then the proceedings must be listed for formal proof. The plaintiff must, before or at the formal proof hearing, file affidavit evidence establishing, to the Judge's satisfaction, each cause of action relied on and, if damages are sought, providing sufficient information to enable the Judge to calculate and fix the damages (Rule 15.9(4)).

[18] In *Neumayer v Kapiti Coast District Council*[3] it was held that Rule 15.9 is mandatory and does not involve the immediate entry of judgment by default.

[19] The damages sought in this case exceed $1m and absent a specialist Weathertight Homes Tribunal, would have been dealt with in the High Court. The amount at issue is well in excess of the District Court's jurisdiction.

[20] It seems that in the *Cole v Xiang*[4] there was no real argument about the scope of s 125 of the Act. When read in context it appears to only apply to weathertight litigation in the District Court rather than claims before the Tribunal.

[21] The Tribunal accordingly proceeds, consistently with the relevant High Court formal proof rule to consider whether both liability and quantum have been established. I shall adopt this approach in relation to both Mr

[3] *Neumayer v Kapiti Coast District Council* [2013] NZHC 1106.
[4] Above n 1.

Blundell and the NZHICWL. There is, on the facts of this case, no prejudice to either respondent in that approach.

[22] I acknowledge that Mr Blundell has taken some steps in the proceedings and in particular put the matter of limitation at issue. In reaching my conclusions on his liability I have had regard to the evidence and legal submissions he has filed but I note that he has not elected to test any of the matters at issue through cross-examination and did not attend the hearing to give evidence under oath before me in support of his contentions. Under s 75 of the Act the Tribunal can draw any reasonable inference it thinks fit from a party's failure to act and determine the claim on the basis of the information available to it. That information is not in my view restricted to affidavit evidence.

[23] I turn now to consider whether the claimants have proven the claim in negligence against Mr Blundell.

THE LIABILITY OF MR BLUNDELL

[24] The claimants contend that Mr Blundell breached a personal duty of care to exercise reasonable skill and care when performing contract administration and construction supervision of the Punjab Knoll complex during its original construction.

[25] In support of this claim the Council submits that designers are subject to a duty to use reasonable care to prevent damage to persons whom they should reasonably expect to be affected by their work.[5] The duty applies to the supervision of contract works if that is the role assumed in the circumstances.[6] It is further argued that the existence of a company does not preclude a personal duty of care being imposed on its directors/officers. The correct focus is on the involvement of the individual, rather than the title or trading name used. It is the "degree of control" over the company's dealings that is critical to whether a duty of care is owed.[7]

[5] *Bowen v Paramount Builders (Hamilton) Ltd* [1977] 1 NZLR 394 (CA).
[6] *Young v Tomlinson* [1979] 2 NZLR 441 (SC) at [452].
[7] *Morton v Douglas Homes Ltd* [1984] 2 NZLR 548 (HC) at [595].

[26] Mr Blundell recorded his offer of services for the Punjab Knoll project in a letter dated 20 May 1998. The penultimate paragraph reads:[8]

> Should you require additional services including; tender analysis, contract administration and construction supervision, we would be happy to undertake this work charged at an hourly rate of $65.00 plus GST until completion.

[27] In his affidavit sworn 4 July 2013 Mr Mark Wala, the second respondent,[9] confirms that this offer was taken up and that Mr Blundell:

a) Prepared specifications;
b) Applied for building consent;
c) Managed a competitive tendering process;
d) Invoiced monthly for project management and supervision;
e) Became the 'employer' under the contract between the developer and builder and was fully involved as the developer's agent;
f) Issued progress payment certificates after reviewing claims by the builder; and
g) Inspected the units for practical completions

[28] On application by the Council, arrangements were made by the Tribunal to hear the evidence of Mr Mark Wala at the adjudication hearing. However, given the absence of Mr Blundell and any indication from him that he wished to cross-examine Mr Wala, it was not necessary for the Tribunal to hear from Mr Wala in person.

[29] Mr Blundell's invoices for the project were produced in evidence[10] and contained repeated references to "site inspections" and "process progress claims".

[30] In his statement dated 3 July 2013[11] the builder, Mr Ian Minshull, says that:

[8] Common bundle of documents (CBD) 2/13/1032.
[9] CBD 2/29/1320.
[10] CBD 2/13/1035-1050.
[11] CBD 2/28/1319.

> I recall that all payments to me were processed by Alan Blundell, and I would also ring him up if any technical questions I had regarding work on – site. I remember that Alan attended some site meetings as well.

[31] Mr Minshull was subpoenaed to attend the hearing but Mr Blundell elected not to attend to cross-examine him or otherwise challenge his evidence. It thus became unnecessary for the Tribunal to hear from Mr Minshull in person.

[32] In his application for removal dated 17 May 2013[12] Mr Blundell admitted:

> I was asked to provide an independent check of each progress claim for payment against the amount of work completed. I visited the site once a month during construction to process these claims.

[33] On 29 July 1998 Mr Blundell issued a certificate of practical completion for unit A (28b) and on 7 February 2000 he issued a certificate of practical completion for unit D (26b).[13]

[34] Mr Blundell stated that he traded under RA Blundell Design Limited. In his application for removal dated 17 May 2013 he contended that the company, RA Blundell Design Limited (now struck off), was the correct respondent. He submitted that there was no tenable evidence to support the contention that he personally owed the claimants a duty of care. Those arguments were rejected by me in Procedural Order 3 dated 22 August 2013.

[35] Prima facie Mr Blundell was the person best placed to give evidence on how he structured his business and what he did or did not personally do on site. However, as already indicated, he has elected not to provide any further evidence on this issue beyond the bald unsworn assertions in his application for removal.

[36] In addressing the issue of Mr Blundell's personal liability the Council contends:

[12] CBD 1/1/003.
[13] CBD 2/13/1052 and 1054.

a) Mr Blundell issued invoices under "RAB Design"[14] with no reference to a limited liability company; and
b) Personally performed all relevant activities in the sense that he did not have employees or contractors do any work on his behalf or the company's behalf. Mr Wala deposed at paragraph [3] of his affidavit – "it appears Mr Blundell operated on his own as the GWIM joint venture never met or had dealings with anyone other than Mr Blundell of RAB Design".[15]

[37] Having regard to all the evidence presented and noting that Mr Blundell has not sought to cross-examine any of the relevant witnesses or give evidence himself in person, I accept the Council's submission that there is "ample evidence" to conclude that Mr Blundell personally owed the claimants a duty of care. Mr Blundell personally carried out construction, administration and construction supervision and his degree of control over relevant aspects of the project was significant. His status as a director of a company does not provide him with an immunity from liability.

[38] I also find that the Council has established that Mr Blundell breached his duty of care (i.e. he was in fact negligent) and that such negligence was a material and operative cause of the claimants' entire loss. The unchallenged independent expert evidence of Ms Dianne Johnson, building surveyor and Mr Thomas Dixon, registered architect, clearly support those conclusions.

Mr Blundell's Limitation Defences

[39] In his memorandum dated 15 April 2014 Mr Blundell seeks a ruling from the Tribunal that all claims against him are statute barred by operation of the Limitation Act 1950 and/or s 393 of the Building Act 2004.

[40] In essence Mr Blundell makes the same arguments he made in relation to his application for removal. He says that all relevant acts or omissions he may have committed, were all committed more than 10 years prior to the application being made by the claimants for WHRS assessor's

[14] CBD 2/13/1035 – 1050.
[15] CBD 2/29/1321.

report. The claims are thus all out of time by virtue of the 10 year long stop period in s 393 of the Building Act 2004.

[41] Mr Blundell also says that the owners of Unit 26b who are also members of the Body Corporate (and which imputes their knowledge to all claimants) had actual knowledge of the leaks to their Unit in 2000 and 2001. This means that all claims are statute-barred under s 4(1) of the Limitation Act 1950 because the cause of action first accrued more than six years prior to the application for an assessor's report being made. In this jurisdiction, limitation is calculated by reference to the date and application is made for an assessor's report.[16]

Relevant Legal Principles

[42] A limitation defence is an affirmative defence that must be pleaded and proven by the party relying upon it.[17] In the leaky building context the cause of action accrues when the cracks become so bad, or the defects so obvious, that any reasonable homeowner would call in an expert.[18]

[43] In *North Shore City Council v Body Corporate 188529 (Sunset Terraces)*[19] held that a cause of action in negligence can accrue to subsequent purchasers in leaky home cases notwithstanding that a cause of action in respect of the same defect in the same property has already accrued to an earlier owner. This principle applies even if the defect had actually been discovered by a prior owner. The jurisprudence on this issue was analysed in greater detail in Procedural Order 3 dated 22 August 2013 in which I dismissed Mr Blundell's application for removal on both limitation and other grounds.

Analysis of Limitation Defences

[44] I find that Mr Blundell has not proven the affirmative limitation defences for which he contends. As noted above, he carries the burden of proof. He has not discharged it.

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[16] Weathertight Homes Resolution Services Act 2006, s 37.
[17] *Humphrey v Fairweather* [1993] 3 NZLR 91 (HC) at [101].
[18] *Invercargill City Council v Hamlin* [1996] 1 NZLR 513 (PC) at [526].
[19] *North Shore City Council v Body Corporate 188529 (Sunset Terraces)* [2010] NZSC 158, [2011] 2 NZLR 289.

[45] Mr Blundell has not provided any further evidence beyond that produced in relation to his application for removal and critically, not sought to challenge through cross-examination the evidence of Mr and Mrs Hesse, the owners of Unit 26B.

[46] The Council has accepted, correctly in my view, that it is only Mr Blundell's acts or omissions on or after 29 October 1998 that are actionable. However, that concession is of no real assistance to Mr Blundell. As the building consent was granted on 28 October 1998, almost the entire construction period is within the ten year limitation period and thus the defence based on s 393 of the Building Act 2004 must be rejected. The claim is not statute-barred under that Act.

[47] To succeed with his defence under s 4(1) of the Limitation Act 1950, Mr Blundell has to establish that the cause of action first accrued before 29 October 2002 – i.e. six years prior to the filing of the application for an assessor's report. Again, I find that Mr Blundell has failed to discharge the burden of proof which he carries to successfully establish that the claim is time-barred under s 4(1).

[48] The evidence does not establish that Mr and Mrs Hesse (the owners of Unit 26b) had actual knowledge of leaks at the Unit in 2000 or 2001. Mr Hesse in his affidavit of 2 December 2012 deals at some length with the history of leaks to his and other units in the complex. The first time Mr Hesse experienced a leak was in 2002 when the lining on the north-facing deck leaked into the security light. Repairs were carried out. Then in 2004, Mr Hesse discovered some mould and fungi in a bedroom. Again, targeted and limited repairs were carried out. At that stage the Hesses had never heard of "leaky buildings". "We just thought it was bad luck to have a leak".[20]

[49] Mr Hesse says that it was not until 2008 after some further leaks had been discovered that they approached the Department of Building and Housing. When the assessor visited their unit he told the Hesses that all of the units were likely to be leaky buildings. The Hesses then told a neighbour and the body corporate secretary of the situation.

[20] Affidavit of Mr Morris Hesse dated 2 November 2012 at [11].

[50] On the basis of this evidence, it cannot be concluded that in 2001 or 2002 that the leaks were so obvious that a reasonable homeowner in the position of the Hesses would have called in an expert. The limitation defence has no merit and is rejected. I also accept the submission of the Council, that the jurisprudence displays an understandable judicial reluctance to equate early instances of leaking with the accrual of a cause of action. In *Body Corporate 114424 v Glossop Chan Partnership Architect Limited:*[21]

> I would have been disinclined to find against the plaintiff that knowledge of leaking in some of the apartments prior to October 1987 fixed the date from which the limitation period should run. The first purchaser took occupation in August 1987 and others subsequently. An architect's report at about that time mentioned severe leaking problems and also referred to remedial work being carried out. Leaking problems in new buildings are not uncommon. They can often be remedied and usually are. I doubt that evidence of leaking in some of the apartments prior to October 1987 should cause the claim to be statute-barred when it was not until some months later, that the results of the extreme conditions experienced in Cyclone Bola persuaded apartment owners to seek professional advice which indicated that there were likely to be structural defects rather than teething problems causing the leaking.

[51] To a similar effect, the Tribunal held in *Pinnock Trust v Auckland City Council:*[22]

> It is not uncommon with leaky home claims to find that isolated leaks have occurred from the time construction was completed or even before the completion of construction as in this claim. Where homeowners are cautious they will call back the builder or engage a suitably qualified tradesperson to investigate the causes of the leaks and suggest remedial works. To conclude that the cause of action accrues at this time when a homeowner could not reasonably have known that they had a leaky home, rather than a home with one or two more isolated leaks, would result in paradoxical and unsatisfactory outcomes in many cases.

[21] *Body Corporate 114424 v Glossop Chan Partnership Architect Limited*, HC Auckland, CP612/93 22 September 1997 at 42.
[22] *Pinnock Trust v Auckland City Council* [2011] NZWHT Auckland 28 at [35].

[52] Having rejected Mr Blundell's claim that the Hesses had actual knowledge of leaks in 2000 or 2001 and that the cause of action in relation to their unit accrued well after October 2002, it is not necessary for me to deal with the further argument of Mr Blundell that the knowledge of the Hesses is somehow imputed to the other owners so as to render the other claims also out of time. The Hesses did not have any relevant knowledge that could be imputed to others. The imputation knowledge argument was raised by Mr Blundell in relation to his application for removal. In Procedural Order 3 dated 22 August 2013 I concluded that such argument was "unattractive".

[53] Having rejected Mr Blundell's limitation defences, I conclude, for reasons given above, that the claims in negligence against him are proven. The issue of quantum (i.e. how much Mr Blundell is ordered to pay) is dealt with below.

THE LIABILITY OF THE NZ HOUSE INSPECTION CO (WELLINGTON) LIMITED (Company Number 1201892)

[54] The claimants sue NZHICWL in negligence and for breach of s 9 of the Fair Trading Act 1986. These claims are based on three pre-purchase inspection reports and inspections carried out by NZHICWL in relation to the following three units:

a) 26a Punjab Street – report dated 10 March 2006;
b) 28 Punjab Street – report dated 9 February 2007; and
c) 28b Punjab Street – report dated 5 November 2007.[23]

[55] Because the three reports were prepared for the respective claimants' predecessors in title, no claims are made in contract or for negligent misstatement against NZHICWL.[24]

[56] Pre purchase inspectors owe a duty to exercise reasonable skill and care in undertaking inspections and reporting on those inspections. A reasonably skilled and careful inspector should identify significant and obviously observable weathertightness faults and risk features, and in

[23] CBD 2/16/1117 – 1145; 1146-1178; and CBD 2/16/1211-1243.
[24] Closing submissions of the Wellington City Council at [5.3] referring to *Bonney v Cottle* HC Auckland, CIV-2010-404-427, 24 November 2011 at [20], [21] and [28]; *Deeming v EIG-Ansvar Limited* [2013] NZHC 955, at [59], [70] and [80].

respect of faults identified, communicate the full implications of those faults and therefore the extent of the weathertightness risks associated with the dwelling.[25]

[57] Under the Fair Trading Act, the test is whether the report was reasonable, based on the information available to the inspector at the time of the inspection.[26]

[58] Each of the respective claimants has provided evidence stating that they relied upon the relevant pre-purchase report when deciding to purchase their unit. They say that they would not have purchased the relevant unit had the pre-purchase inspection report identified weathertight defects, as it should have done.

[59] The Council relies on the evidence of the independent expert, Mr Mark Powell, chartered building surveyor, to establish the contentions that the NZHICWL reports were both misleading and in breach of the relevant standard of care. In his affidavit of 12 July 2013 Mr Powell states:

a) the NZHICWL failed to perform to the level of a reasonably prudent inspector when checking the dwelling and preparing the reports; and
b) water entry and weathertightness issues exist in the dwellings as a result of several of the defects that the NZHICWL failed to detect.

[60] Having regard to the evidence of the claimants, the independent experts, Mr Powell, the assessor and Ms Dianne Johnson, I am satisfied that the claimants have proven the claims against NZHICWL in both negligence and for breach of s 9 of the Fair Trading Act 1986. The reports were all misleading and negligent and because the respective claimants relied upon them, they were a material and operative cause of the claimants' entire losses. I now turn to consider the calculation of those losses.

[25] *Hepburn v Cunningham Contracts Limited* [2013] NZHC 210 at [108], [109], [156]-[164].
[26] *Mok v Bolderson* (HC Auckland, CIV-2010-404-7292, 20 April 2011).

QUANTUM

[61] The quantum sought against both respondents is set out in a schedule attached to the Council's closing submissions dated 17 April 2014. The Council seeks the sum of $1,116,345.16 against Mr Blundell and the sum of $868,039.98 from NZHICWL. Both figures include the costs of repairs, general damages, consequential losses and interest.

[62] The repairs to the Punjab Knoll complex were carried out in 2010-2012. The amounts claimed for the repairs are thus based on actual costs incurred. The Council accepts that the settlement sum of $1,450,000.00 should be deducted from the overall quantum claimed.

[63] There has been no challenge by any party to the amounts claimed by the Council. At the hearing on 14 April 2014 a number of items previously claimed were identified as not properly recoverable. In its closing submissions the Council has accepted a deduction of $12,948.60 to provide for the non-recoverable items.

[64] On the basis of evidence provided by each of the claimants, I accept that general damages of $25,000 should be awarded in relation to each unit.

[65] As to the claim for interest, the Council relies on a calculation prepared by the claimants before the mediation in December 2013.[27] This calculation takes into account:

a) The period(s) during which the repairs were performed and the costs/losses were incurred.
b) The average 90 day bill rates for each period plus a two per cent loading;[28] and
c) Only repair (less betterment) and consequential loss amounts (no general damages included in calculation).

[66] I accept that the interest calculation has been prepared with meticulous care by the claimants and in accordance with cl 16 of Sch 3 of

[27] CBD 1/4A/147B-147F.
[28] Clause 16 of Schedule 3 of the Weathertight Homes Resolution Services Act 2006.

the 2006 Act. I find that the claimants should be awarded the interest claimed, namely $254,290.24.

[67] I conclude that the Council have proven the following amounts of loss:

Quantum – Mr Blundell					
Unit	**26A**	**26B**	**28A**	**28B**	**TOTAL**
Repairs	$537,153.02	$470,960.80	$530,917.39	$478,755.47	$2,017,786.68
Consequentials	$44,911.61	$54,240.75	$51,910.03	$43,205.85	$194,268.24
General damages	$25,000.00	$25,000.00	$25,000.00	$25,000.00	$100,000.00
Interest	$61,634.41	$60,603.63	$66,476.77	$65,575.43	$254,290.24
Claim TOTAL	$668,699.04	$610,805.18	$674,304.19	$612,536.75	$2,566,345.16
Less settlement					$1,450,000.00
TOTAL CLAIM					**$1,116,345.16**

Quantum – The NZ House Inspection Co (Wellington) Limited				
Unit	**26A**	**28A**	**28B**	**TOTAL**
Repairs	$537,153.02	$530,917.39	$478,755.47	$1,546,825.88
Consequentials	$44,911.61	$51,910.03	$43,205.85	$140,027.49
General damages	$25,000.00	$25,000.00	$25,000.00	$75,000.00
Interest	$61,634.41	$66,476.77	$65,575.43	$193,686.61
Claim TOTAL	$668,699.04	$674,304.19	$612,536.75	$1,955,539.98
Less settlement				$1,087,500.00
TOTAL CLAIM				**$868,039.98**

CONCLUSION AND ORDERS

[68] The claimants have proven their claims and the quantum sought against both Mr Blundell and the NZHICWL.

[69] Mr Richard Alan Blundell, the sixth respondent, is ordered to pay the claimants the sum of $1,116,345.16 forthwith.

[70] The NZ House Inspection Co (Wellington) Limited, being company number 1201892, the seventh respondent, is ordered to pay the claimants the sum of $868,039.98 forthwith.

DATED this 9th day of September 2014

P J Andrew
Tribunal Member