



COMMUNIQUÉ

Newsletter of the

New Zealand Architects Co-operative Society Ltd

February 2006

Alan Purdie writes:

Here is a good New Years Resolution for you all – Don't Aim for the "Top Ten."

In their 2005 Annual Report the Architects Registration Board of the United Kingdom published a summary listing the 10 most common complaints received by the ARB against architects.

Don't think for a minute, these "*top ten*" are exclusive to the profession in the UK. I can assure you all, that in my experience I have heard the lot, and then some, over the years. Architects in New Zealand are certainly not immune from such similar allegations.

It is timely to bring the "*top ten*" to your attention as the profession is about to enter a new legislative era, with the coming in to effect of the Registered Architects Act 2005, from 1 July this year.

The Government's aim in bringing in this legislation is to ensure the public would have greater protection by making the profession more accountable by requiring ongoing competence testing, requiring improved disciplinary procedures together with a new and expanded Code of Ethics and Standards of Ethical Conduct.

Ron Pynenburg, Chairman of the new Registered Architects Board emphasized these issues in the October 2005 issue of Cross Section. He said: *"Clearly there have been new statutory impositions on architects, such as the requirement to demonstrate ongoing competency. With revised disciplinary standards providing a lower threshold for action to occur, we (the RAB) expect there to be more complaints to be processed than in the past."*

Ron is correct of course, as under Section 25 of the Act, Grounds for Discipline of Registered Architects, complaints will be able to be made to the RAB where it is alleged:

*"(1) (b) a registered architect has breached the code of ethics contained in the rules: or
(c) a registered architect has practiced as a registered architect in a negligent or incompetent manner."*

In reviewing the "*top ten*" each one would be in breach of the standards under the Obligations to the Client section of the proposed Code of Ethics and Standards, included in the support documentation for the RAB's consultation round, held in the latter part of last year. Further, in relation to domestic commissions, a number of the "*top ten*" would be in breach of the Consumer Guarantee Act. Any complaint or action against a member, as well as being subject to the new disciplinary procedures of the RAB, will require an immediate claim notification to the Society.

The Top Ten Complaints from the RAB annual report are:

1. Excessive delay in the project being completed.

Example: An architect should exercise caution if trying to predict for a client how long a particular project will take to complete. The client should be warned that the delays may be caused for all sorts of reasons, including unavailability of materials or special orders, poor weather, unforeseen or site difficulties, when building works commence.

2. The architect raised the client's expectations too high in terms of the budget available, resulting in the original concept having to be scaled down.

Example: An architect will obviously endeavour to create the client's "*dream*," but it is unrealistic to do that if the budget does not permit it. Major disappointments are encountered when tenders for a concept come in vastly over the client's budget, which results in client dissatisfaction.

3. The client was expected to pay for mistakes/errors made by the architect.

Example: In one case brought to the ARB's attention, windows and doors ordered by the contractor did not fit because of errors in the plans. Neither the contractor nor the architect would accept responsibility, and the client was left to pay the bill for rectification.

4. Contract papers were not clear.

Example: ARB receives many complaints about alleged lack of contract documentation. In particular, failure to set out understandable fees and to detail roles and responsibilities are frequently raised. Disputes also arise where clients are under the impression that the architect is going to the site regularly "*supervising*" the building project, whereas their contractual obligation is only to "*inspect periodically*."

5. The architect has attempted professional work outside their area of technical competence.

Example: It is a frequent complaint to ARB that clients, having met with and briefed an architect on a matter, then find that their expertise is not as wide ranging as claimed. Particular examples often involve such issues as Party Wall Agreements, boundary disputes, or "*advising*" on structural/engineering matters.

6. The architect did not reply to their client's letters, emails and/or phone calls.

Example: Communication problems are at the root of many complaints. One of the biggest complaints made about architects is their failure to advise or warn clients when costs are escalating beyond the initial budget.

7. Failure to deal with post-completion problems, snagging issues, etc.

Example: It is a common complaint that, once a project has been completed, fees have been paid and money released to the contractor through the final certification, the architect shows no further interest in matters. The fact that a newly constructed roof starts to leak after six months after completion, or severe cracking occurs in walls, or flooring buckles, is something that should not be ignored if complaints are to be avoided and client satisfaction maintained.

8. Clients given bad advice.

Example: Care should be taken before recommending particular materials or equipment with which the client is subsequently dissatisfied. Architects should also be careful not to advise or involve themselves in issues about which they have no expertise: eg. engineering matters, or financial/ GST implications of projects.

9. Conflicts of interest-particularly close working relationships with a contractor or other professional working on the project.

Example: Clients often complain that they were not aware that the architect had an ongoing business relationship with the contractor or others involved in the project. This makes the client suspect that the architect was not necessarily acting in their best interest.

10. Work delegated to juniors.

Example: A commission secured partner level, with early partner involvement, may turn sour if work is then delegated to more junior members of staff, without the ongoing support or involvement of the partner. This frequently creates a situation where there is a loss of confidence.

If you haven't seen a copy of the proposed new Code of Ethics and Standards of Ethical Conduct of the RAB then you should download it from their website: www.nzrab.org.nz and study it, particularly the third obligation, Obligations to the Client and the Standards which underpin this obligation.

Such a study will convince you not to aim for the "top ten." You have just over four months to look carefully as to how you practice and make any necessary changes to comply with the new legislative regime. Improvements you make will improve the manner in which you practice and serve your clients, avert possible complaints and avoid potential claims to NZACS. That has to be good for the profession and the public whom you serve. After all, the Act is all about the protection of the public.

December 2005 Communiqué. Have you seen it?

December Communiqué was sent out quite close to the Christmas break, so some members may have overlooked it or not noticed that it had arrived on their email.

It comprised an important article by Barry Dacombe headed "*Progress Payments and the Construction Contracts Act 2002.*" Should you have missed spotting it, check back on your email system or go to the Society's website and source the article as titled above.

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We welcome contributions from readers, on how they manage risk.