

Defects in your Investment. Your Home Warranty Insurance May Not Respond As you Might Think

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No investor or owner likes to wake one day to discover that their prized and most expensive residential purchase is suffering from substantial cracking, leaks and other latent defects caused by negligent building or design.

Although the majority of developments today are built solidly, unfortunately some people may have bought into a development that has started to show hidden defects that were not present at the time of purchase.

Sometimes the defects emerge long after the defect liability period under the original construction contract has lapsed.

Some defects have been emerging as long as six years or more after the works were complete.

When the builders (and developers) refuse to correct defective workmanship created by them this is when owners begin to explore their legal rights and insurance policies.

Even after as long as six years, the sudden appearance of defective workmanship and design in residential buildings will not in some cases prevent the owner recovering from the builder for the correction of that defect. Many owners, especially those that have bought residential property since 1997, would also have Home Building Warranty Insurance. This insurance if issued after 1 July 2002 is now an insurance of " **last resort**" and generally only covers you in the event the builder is no longer in existence. If the builder can be pursued, then the insurer will not pay for the correction of the defective work nor pursue the builder on your behalf. In this case, you must pursue the builder yourself.

Where the insurance policies were issued after 2002 very often the owners, investors and body corporates must chase the builder (or developer) themselves.

A careful read of the policy is required.

Legally pursuing builders and developers can be a stressful experience. This can be all the more difficult if you have no more savings left or the body corporate's sinking fund has insufficient capital. What people have most troubles with is how to get the defect corrected.

Things are not all bad, what people may not realise is that

- there is sometimes no limitation period in which you can bring some defective workmanship claims. Time then is on your side in some instances; and .
- **The law is strongly favours the owner, investor and body corporate**

With investors under pressure to make the most of yearly rental returns and owners sinking substantial sums into their homes, defect rectification will likely emerge as a major issue for property in the future.

If the builder still exists Home Building Warranty Insurance (if issued after 2002) will often not respond as you would expect. Some unlucky owners, investors and body corporates will be left to pursue builders and developers as hidden defects are discovered in their investments over the next ten years.

There are specialists in the area of residential construction works that can provide defect reports, legal advice and finance assistance. Obtaining a successful result can often be achieved but sometimes it's just a question of knowing who to ask for help.

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