

## **Leaky Buildings: The State of the Play**

There are no signs that the number of leaky building cases are declining. In fact more and more people are discovering that they too must face the fact that their home has significant moisture egress issues and they need to spend a significant amount of money on repairs. Naturally they want to recover most or all of this if they can from those responsible for the defects. The government has announced yet another review of the way the claims process is working and further changes are likely.

## **Case Law**

There have now been several High Court and Court of Appeal decisions on various aspects of claims against councils, designers, developers and builders. The law in this area is now relatively clear and this is assisting in the settlement of claims. It is unusual for claims to go to a court hearing unless there is some novel aspect to them that requires a court decision. The majority of claims are settling and at sums much more favourable to claimants than a year or so ago. This is because the case law is making it much more difficult for defendants to defend claims. Well resourced defendants however are still most unlikely to simply write a big cheque. Any possible defence is explored and claimants are expected to produce a high level of proof before settlement becomes a possibility. Claimants need to be savvy about choosing the strategy that is likely to best achieve the results they want.

## **Weathertight Homes Tribunal or Court?**

One of the difficult decisions facing those with a leaky building claim is whether to commence this in the High Court or with the Weathertight Homes Tribunal. Here at Lawworks we have achieved good results for clients in both forums. The Tribunal has had its jurisdiction and powers extended and it can now deal with multi-unit claims. The Tribunal is much less formal than the High Court and consequently claims tend to get heard or settled earlier. However the Tribunal has no power to award legal costs and for some this is a significant drawback.

In the end the choice of which forum may be very driven by the complexity of the issues, the facts, the likely defendants to the claim and also the personal circumstances of the claimants. At LawWorks we will discuss the pros and cons of each with you and assist in making the right choice for you.

***Contact George Ireland, Partner on 303 9923 for further information.***