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## NZRAB Newsletter 3/2009

### Special Report: Protection of Title

Hello again from the New Zealand Registered Architects Board.

This is a special newsletter, covering one topic only. One of the tasks of the NZRAB is **title protection**. This means enforcing section 7(2) of the Registered Architects Act 2005 which says that no person can offer building design services and use the title "architect" unless he or she is a Registered Architect. So this is about defending the brand "architect".

There's a lot happening with this work at the moment, so this is a good time to report back to you.

#### GJ Gardiner Homes

Recently you may have seen television advertisements from a building franchise GJ Gardner Homes. Many architects have been riled up about one of these advertisements denigrating architects and the NZIA has correctly taken that up with GJ Gardner Homes.

However, separately, NZRAB has been concerned that these advertisements create the impression that the designs on offer from GJ Gardner Homes are the work of architects when this might not be the case. Also, the GJ Gardner Homes website talked about "our architects" when discussing various designs. In the NZRAB data base no New Zealand architects have cited GJ Gardner Homes as their place of work.

I recently contacted GJ Gardner Homes and they have responded positively. The GJ Gardner Homes website now refers to "our designers". GJ Gardner Homes has also agreed to review its television advertising and other marketing materials. GJ Gardner Homes makes the point that in many cases their designs have had input from architects. Their CEO writes: "Our franchise network do engage the services of registered architects on a contract basis to design homes for clients, or a special project they are endeavouring to win or, as I have recently experienced, a specific concept of a new offer/product they wish to explore as a niche market opportunity."

#### Commerce Commission complaints

Our biggest title protection problem is real estate agents advertising a house as designed by a named architect when in fact the person named is not an architect. Presumably, some people think buyers will pay more for a house that way.

We have written repeatedly to real estate agents and the newspapers that print the advertisements or "advertorials". The answer is usually "Oh sorry, we didn't realise."

More recently, we laid complaints with the Advertising Standards Authority. Each complaint has cited the Advertising Code of Ethics which states: "No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer."

The Authority has found in our favour repeatedly and admonished the advertisers. However, more "false" advertisements continue to appear. More recently, the Authority has asked me to stop laying complaints as they say they can't do anything more, but the problem remains.

The next step we've taken is two complaints made to the Commerce Commission saying that two recent property supplements – *Sunday Star Times* and the *New Zealand Herald* – have breached the Fair Trading Act. The Commission says that under the Fair Trading Act "Any claims a business makes about qualifications or skills its employees possess must be truthful and accurate." We have argued that the same should apply when claims are made about the qualifications of a contractor involved in creating an advertised product. I expect to hear whether the Commission will get involved within the next week or two.

### **Finding former architects**

Some months back the *Christchurch Press* rang to ask if a person who had designed a house they were advertising was an architect. We told the *Press* "Check our online register". The writer replied "We've done that, but how do we know if the designer was an architect when the house was designed but isn't now – then the "architect" wouldn't show on the register?"

We thought about that and concluded that the point was valid. So now there is a second list on the NZRAB website – [www.nzrab.org.nz](http://www.nzrab.org.nz) - which includes the names of all former architects going back to 1964 when the Architects Education and Registration Board first got started. There's no excuse now for the media and real estate agents not checking.

### **Morning Report and the Real Estate Institute of New Zealand**

Our press statement announcing the new "Find a former architect" facility aroused media interest, including Morning Report coverage. Also, the Real Estate Institute in its July 2009 *RE Journal* published an article in which members were told how to find out, via the NZRAB website, if a person is an architect. The report quoted the REINZ president congratulating the NZRAB on its initiative, as well as extolling the value in engaging the services of an architect on his own home. The report also noted that one expects people who say they are dentists to be dentists! Both reports can be accessed on the news page in "About Us" at [www.nzrab.org.nz](http://www.nzrab.org.nz).

Hopefully this is the beginning of the real estate industry educating its members. We intend to undertake further liaison with the Real Estate Institute. Also real estate agents are about to have a new registration regime very similar to architects. False advertising will become a basis for complaints to their new registration agency I suspect.

### **Trading names**

Another issue is design firms with trading names that suggest that architects are involved when in fact they are not. These are firms with trading names like "Bill Smith Architecture", "Bill Smith Architectural" and then like, when Bill Smith is not an architect. The law in New Zealand is weak. For example, in most Australian states architectural firms as well as individual architects have to be registered. In Singapore, the agency that registers architects can veto the trading name of any company that wants to register as a company offering building design services. Thus in Singapore unless Bill Smith is an architect he cannot register a company with the words "Architecture" or "Architectural" in its name. We raised this issue with the Minister for Building and Construction recently. Though he was interested, change won't come anytime soon, but the issue won't go away either.

### **A prosecution?**

It's the Board's policy that if we detect a case where a person is deliberately pretending to be an architect for gain we will prosecute. This depends on us getting reliable information, such as a business card or invoice or a photograph of signage, showing a person falsely pretending to be an architect for gain. We ask all architects to be our eyes and ears.

### **Graduate Architects – no such beast**

Some practices refer to some of their junior staff as "Graduate Architects". There is no such thing. The term undermines the brand value of "Registered Architect" and should not be used. Technically a person who offers building design services, uses the title "Graduate Architect" and is not registered is breaking the law. A grad can be called an "Architectural Graduate", but not a Graduate Architect, anymore than a person with a law degree can be called a graduate lawyer or a person with a degree in medicine can be called a graduate doctor.

That's where we are at the moment. I hope you found this informative. If you have any concerns do get in touch.

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