



# Building claims

*Does post-remediation stigma exist?*

In a significant number of the building defects cases that our firm defends on behalf of councils, property owners will often claim that their properties will suffer an ongoing diminution in value or stigma despite their properties being fully repaired.

We have seen such claims made in respect of monolithic-style buildings as well as weatherboard or more traditional types of construction.

The opinion evidence that we have amassed on behalf of councils when defending these claims is that properties do not suffer a residual stigma because repairs have been carried out to them.

Rather, if they suffer a stigma, they suffer it for reasons other than the fact that repairs have been completed. This is certainly the opinion of Dr Michael Rehm, author of research article *Judging a house by its cover* and senior lecturer in the Department of Property at the University of Auckland.

What has become clear is that monolithically-clad houses in particular do have a residual stigma whether they have been repaired or not.

In Dr Rehm's opinion, this is because prospective buyers of monolithically-clad houses will often associate leaky building syndrome with these types of properties and will discount the amount they are prepared to pay for them.

This general leaky building stigma is not a loss that can be fairly visited upon defendant parties such as councils in the context of court or Weathertight Homes Tribunal claims. This is because this general market stigma exists not because of a council's involvement at the property.

Rather it has resulted from media attention surrounding leaky building syndrome and a general perception in the market place that monolithically-clad buildings are more prone to weathertightness failure.

Post-remediation stigma has largely been

rejected by the courts and the Weathertight Homes Tribunal except for a small number of cases.

The case for post-remediation stigma not existing can be demonstrated using Dr Rehm's example of two identical monolithically-clad houses, one having been well maintained with no history of leaking (house A) and the other having leaked and having been remediated (house B), both offered for sale at the same price. Which house would a prudent purchaser elect to buy?

It is assumed that house B has been properly remediated pursuant to a building consent application with a code compliance certificate being issued following completion of the repairs.

As part of house B's repair process, the timber framing has been replaced where required and all timber left in place has been treated. The house will have a cavity enabling the walls to drain and dry, leaky building experts will have been involved in the repair and the house will have a new limitation period within which a hypothetical prospective purchaser can bring a claim.

In such circumstances, it is Dr Rehm's opinion that a hypothetical prospective purchaser would perceive that house B has less risk of suffering future weathertightness failure because it has been remediated, compared with house A.

As such, it is Dr Rehm's opinion that a hypothetical purchaser would elect to buy house B.

In conclusion, the evidence suggests that all monolithically-clad homes are subject to general market stigma whether or not they have suffered from leaking.

Given the analysis above, a remediated home is less likely to suffer stigma compared with an unremediated house. Interestingly, it is even arguable that a remediated home will likely experience an increase in its value as a result of it having been remediated. **LG**

IT IS EVEN ARGUABLE THAT A REMEDIATED HOME WILL LIKELY EXPERIENCE AN INCREASE IN ITS VALUE AS A RESULT OF IT HAVING BEEN REMEDIATED.